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**1999**

# ***Illinois Register***

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## **Rules of Governmental Agencies**

Volume 23, Issue 32 — August 06, 1999

Pages 8,737 – 8,881

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Index Department  
Administrative Code Div.  
111 East Monroe Street  
Springfield, IL 62756  
(217) 782-7017  
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**Jesse White**  
Secretary of State



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**Editor's Note:** The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 17, 1999 - Issue 16: Through	March 31, 1999
July 17, 1999 - Issue 29: Through	June 30, 1999
October 16, 1999 - Issue 42: Through	September 30, 1999
January 15, 2000 - Issue 3: Through	December 31, 1999 (Annual)



## INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

## REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
Issue 4	January 11	January 22	Issue 31	July 19	July 30
Issue 5	January 19	January 29	Issue 32	July 26	August 6
Issue 6	January 25	February 5	Issue 33	August 2	August 13
Issue 7	February 1	February 16	Issue 34	August 9	August 20
Issue 8	February 8	February 19 **	Issue 35	August 16	August 27
Issue 9	February 16 ***	February 26	Issue 36	August 23	September 3
Issue 10	February 22	March 5	Issue 37	August 30	September 10
Issue 11	March 1	March 12	Issue 38	September 7 ***	September 17
Issue 12	March 8	March 19	Issue 39	September 13	September 24
Issue 13	March 15	March 26	Issue 40	September 20	October 1
Issue 14	March 22	April 2	Issue 41	September 27	October 8
Issue 15	March 29	April 9	Issue 42	October 4	October 15
Issue 16	April 5	April 16	Issue 44	October 12 ***	October 22
Issue 17	April 12	April 23	Issue 43	October 18	October 29
Issue 18	April 19	April 30	Issue 44	October 25	November 5
Issue 19	April 26	May 7	Issue 45	November 1	November 12
Issue 20	May 3	May 14	Issue 46	November 8	November 19
Issue 21	May 10	May 21	Issue 47	November 15	November 29 *
Issue 22	May 17	May 28	Issue 48	November 22	December 3
Issue 23	May 24	June 4	Issue 49	November 29	December 10
Issue 24	June 1 ***	June 11	Issue 50	December 6	December 17
Issue 25	June 7	June 18	Issue 51	December 13	December 24
Issue 26	June 14	June 25	Issue 52	December 20	December 31
Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

\* Monday following a state holiday.

\*\* Tuesday following a state holiday.

\*\*\* Since the state holiday is a Monday, the deadline is Noon on Tuesday.



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Conditions of Employment

2) Code Citation: 80 Ill. Adm. Code 303

3) Section Number: 303.310  
Proposed Action: Amend

4) Statutory Authority: Implementing and authorized by the Personnel Code [20 ILCS 415].

5) A Complete Description of the Subjects and Issues Involved: This proposal is designed to ensure that the State's personnel policies conform to applicable federal requirements.

6) Will this rulemaking replace any emergency rulemaking currently in effect?  
No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Rulemaking does not affect units of local government.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of the date of this publication to:

Stephen W. Seiple  
720 Stratton Office Building  
Springfield IL 62706  
217/782-9669

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: The need for the rulemaking did not come to the Department's attention until after the

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

timeframe in which a regulatory agenda was to be filed.

The full text of the Proposed Amendment begins on the next page.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND  
 POSITION CLASSIFICATIONS  
 CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## PART 303

## CONDITIONS OF EMPLOYMENT

## SUBPART A: GRIEVANCE PROCEDURE

Section  
 303.10 Definition of a Grievance  
 303.20 Procedure  
 303.30 Grievance Committee  
 303.45 Representation

## SUBPART B: LEAVE OF ABSENCE

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 303.100 Accumulation of Sick Leave  
 303.102 Payment in Lieu of Sick Leave  
 303.105 Reinstatement of Sick Leave  
 303.110 Advancement of Sick Leave  
 303.112 Sick Leave Bank  
 303.115 Veterans Hospital Leave  
 303.125 Leave for Personal Business  
 303.130 Maternity/Paternity and Adoption Leave  
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## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

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## SUBPART C: WORK HOURS AND SCHEDULES

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 303.300 Work Schedules  
 303.310 Emergency Shut-Down  
 303.320 Overtime  
 303.330 Overtime Payable Upon Death  
 303.340 Attendance Records  
 303.350 Notification of Absence  
 303.355 Review of Attendance Records

## SUBPART D: UNDATED OR INCOMPLETE FORMS

Section  
 303.360 Undated Forms  
 303.370 Incomplete Forms

## SUBPART E: EMPLOYEE SEPARATIONS

Section  
 303.380 Reason for Separation  
 303.385 Repayment of Benefit Time

## SUBPART F: TUITION REIMBURSEMENT

Section  
 303.390 Tuition Reimbursement

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

SOURCE: Filed May 29, 1975; amended at 3 Ill. Reg. 22, p. 78, effective June 1, 1979; amended at 3 Ill. Reg. 26, p. 199, effective July 1, 1979; emergency amendment at 3 Ill. Reg. 48, p. 188, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 11, p. 70, effective March 1, 1980; amended at 4 Ill. Reg. 15, p. 216, effective March 31, 1980; amended at 4 Ill. Reg. 22, p. 227, effective June 1, 1980; amended at 5 Ill. Reg. 8029, effective August 1, 1981; codified at 7 Ill. Reg. 13209; emergency amendment at 8 Ill. Reg. 329, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7788, effective May 23, 1984; amended at 14 Ill. Reg. 3433, effective February 27, 1990; emergency amendment at 15 Ill. Reg. 5076, effective March 20, 1991, for a maximum of 150 days; emergency expired August 17, 1991; amended at 15 Ill. Reg. 5214, effective April 2, 1991; amended at 15 Ill. Reg. 14067, effective September 12, 1991; amended at 16 Ill. Reg. 8368, effective May 21, 1992; amended at 17 Ill. Reg. 5587, effective March 29, 1993; amended at 19



## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

## NOTICE OF PROPOSED AMENDMENT

Ill. Reg. 8130, effective June 7, 1995; amended at 19 Ill. Reg. 11775, effective August 7, 1995; emergency amendment at 21 Ill. Reg. 11291, effective July 22, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15454, effective November 24, 1997; amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART C: WORK HOURS AND SCHEDULES

## Section 303.310 Emergency Shut-Down

- a) An agency may request an emergency shut-down of a facility when there occurs a disruption of work at the work site caused by a condition beyond the control of the agency, such as equipment failure, fire, flood, snow, tornado or other natural disaster, or interruption of essential services such as water or electricity.
- b) An emergency shut-down may not exceed five consecutive work days, and requires prior approval of the Director. It is the responsibility of the requesting agency to notify affected employees of this action. The agency shall attempt to reassign affected employees to alternative work locations during the period the facility is shut down. For employees the agency is unable to reassign, time in non-work status as a result of the emergency shut down is with pay. ~~Time-in-non-work status-as-a-result-of-the-emergency-shut-down-is-without-pay; however, employees-may-be-allowed-to-use-accumulated-leave--time--except--sick leave- Those employees on approved sick leave or vacation at time of shut-down shall be reported in accordance with the prior approved absence. As-approved-by-the-Director--designated-employees-may-remain in-work-status-during-the-shut-down-where-the-critical-nature-of-their work-assignment-requires-such-continuation.~~

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: General Program Provisions
- 2) Code Citation: 89 Ill. Adm. Code 676
- 3) Section Numbers: Proposed Action:  
676.30 Amendment
- 4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues involved: This amendment revises this Part to change the definition of "Legally Responsible Family Member". This new definition states that a parent is legally responsible for a child under age 18.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:
- Ms. Susan Weir, Bureau Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor Harris Bldg.  
Springfield IL 62762  
Telephone number: (217) 785-9772

If because of physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

None

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: This rulemaking was not anticipated at the time of the development of the Regulatory Agenda.

The full text of the Proposed Amendment(s) begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 676

## PROGRAM DESCRIPTION

## SUBPART A: GENERAL PROGRAM PROVISIONS

Section  
676.10  
676.20  
676.30  
676.40

Program Purpose and Types  
General Program Accessibility  
Definitions  
Service Description

## SUBPART B: CASE MANAGEMENT

Section  
676.100  
676.110  
676.120  
676.130  
  
676.140  
  
676.150

Case Files (Repealed)  
Sharing of Customer Information Between HSP and Other DHS Programs  
Documentation of Information  
Customer Signatures and Information Required to Receive Services Under the HSP  
Application by DHS-ORS Employees, Individuals Holding Contracts with DHS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees, or Close Friends of DHS-ORS Employees  
Geographic Case Assignment

## SUBPART C: VENDOR PAYMENT

Section  
676.200  
676.210

Vendor Payment  
Reporting and Collection of Misspent Funds

## SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DoA)

Section  
676.300  
676.310

Criteria for Referral to DoA  
Disposition of Cases not Appropriate for Referral to DoA

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 21 Ill. Reg. 2678, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 19563, effective October 23, 1998; amended at 23 Ill. Reg. 6445,



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

effective May 17, 1999; amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROGRAM PROVISIONS

## Section 676.30 Definitions

For the purposes of this Subchapter, unless otherwise stated, the following terms shall have the following meanings.

- a) Activities of Daily Living (ADLs) - those tasks an individual must do, or which an individual must have provided for him/her, in order to prevent institutionalization (i.e., bathing, dressing, shopping, cooking, housekeeping, etc.).

- b) Customer - anyone who:

- 1) has been referred to HSP for a determination of eligibility for services;
- 2) has applied for services through HSP;
- 3) is receiving services through HSP; or
- 4) has received services through HSP.

If the customer is unable to satisfy any of his/her obligations under the HSP, including, without limitation, the obligation to serve as the employer of the PA, the customer's parent, family member, guardian, or duly authorized representative may act on behalf of the customer and is included within the definition of "customer", as used throughout this Part.

For purposes of the PA services performed pursuant to the HSP, the customer shall serve as the employer of the PA. In this capacity, the customer is responsible for controlling all aspects of the employment relationship between the customer and the PA, including, without limitation, locating and hiring the PA, training the PA, directing, evaluating and otherwise supervising the work performed by the PA, imposing (where, in the opinion of the customer, it is appropriate or necessary) disciplinary action against the PA, and terminating the employment relationship between the customer and the PA.

- c) Counselor - the DHS-ORS staff person or contractual Case Manager who helps to ensure that the funds available under the HSP are properly distributed in accordance with the Service Plan, any applicable waiver programs, and all applicable laws.

- d) Determination of Need (DON) - the assessment tool used to determine an individual's non-financial eligibility for HSP services based on the individual's impairment and need for care. This form measures the level of risk of institutionalization for the individual.

- e) DHS - Illinois Department of Human Services.

- f) DPA - Illinois Department of Public Aid.

- g) Family - any one related by blood, marriage, or adoption to the individual seeking services through HSP or anyone with whom the individual has a close inter-personal relationship and who resides

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

with the individual.

- h) Family Unit - for the purposes of determining financial eligibility, the number of persons derived when counting the individual seeking services through HSP and the number of persons in the household who are legally responsible for the individual seeking services and for whom the individual seeking services is legally responsible.

- i) HCFA - the federal Health Care Financing Administration.

- j) Home Services Program (HSP) - a State and federally funded program designed to allow Illinois residents, who are at risk of unnecessary or premature institutionalization, to receive necessary care and services in their homes, as opposed to being placed in an institution.

- k) Home - a private residence where the customer lives which is not an intermediate care or skilled nursing facility as defined at 77 Ill. Adm. Code 300, or a residential program operated by, or for which funding is provided by, the Illinois Department of Human Services, Office of Mental Health and Office of Developmental Disabilities as defined at 59 Ill. Adm. Code 120. For the purpose of this Subchapter, the term "home" shall include domestic violence shelters as defined in Section 1(c) of the Domestic Violence Shelter Act [20 ILCS 2210/1(c)].
- l) Intermediate Care Facility (ICF) - a nursing facility that provides regular health related care to its residents, as well as those services necessary for safe and adequate living.

- m) Legally Responsible Family Member - a spouse, parent of a child who is under age 18 20--years--of--age--or--under 17 or a legal guardian of an individual who is under age 18.

- n) Medicaid - the Medicaid program administered by DPA under the Public Aid Code [305 ILCS 5/11].

- o) Medicaid Waiver - the waiver allowing HSP to claim federal reimbursement for approved levels of in-home care for individuals who would otherwise be placed in institutions for such care. The Medicaid Waiver is overseen at the federal level by HCFA.

- p) Personal Assistant (PA) - an individual employed by the customer to provide through HSP varied services that have been approved by the customer's physician.

- q) Personal Assistant Backup Plan - the plan developed by the customer and designed to ensure that the customer receives the necessary care and services under the HSP in the event that his/her regular PA is unavailable or unwilling to perform his/her obligations under the HSP. The customer is responsible for designating the backup personal assistant.

- r) Physician - a licensed doctor of medicine (M.D.) or doctor of Osteopathy (D.O.) licensed pursuant to the Medical Practice Act [225 ILCS 60].

- s) Prescreening - an assessment to determine an individual's need for institutional care at the ICF or SNF level care, to ensure Medicaid payment for such a placement is appropriate, and the assessment as to whether or not HSP services are an appropriate alternative to institutional care for the individual.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- t) Service Cost Maximum (SCM) - the maximum monthly amount which may be expended for HSP services for an eligible individual. This amount is determined based on the individual's DON score and the specific programmatic component of HSP through which the individual is being served.
- u) Service Plan - specifically, the Home Services Program Service Plan (IL 488-1049), Home Services Program Service Plan Addendum (IL 488-1050) or the Interim Agreement (IL 488-2344) forms, on which all services to be provided to an individual through HSP are listed.
- v) Services - the necessary tasks provided to an individual, in one or more of the areas listed in Section 676.40 and listed on the individual's Service Plan, through HSP with the intent of preventing the unnecessary institutionalization of the individual.
- w) Skilled Nursing Facility (SNF) - a facility that provides regular and on-going nursing level care to its residents due to the residents' medical conditions, as well as those services necessary for safe and adequate living.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Subacute Alcoholism and Substance Abuse Treatment Services
- 2) Code Citation: 77 Ill. Adm. Code 2090
- 3) Section Numbers: Proposed Action:  
 2090.10 Amended  
 2090.20 Amended  
 2090.30 Amended  
 2090.35 Amended  
 2090.40 Amended  
 2090.70 Amended  
 2090.80 Amended  
 2090.100 Amended
- 4) Statutory Authority: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].

- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds medically monitored detoxification as a covered service under Medicaid. By adding this service the Department will make this service available to other non-Medicaid eligible clients. This will allow these individuals to receive immediate care for their alcoholism or other drug impairment. The rulemaking also changes the rate of payment for Level II service (intensive outpatient) to make the reimbursement method similar to the Level I services.

Also, the revisions reflect recent administrative and procedural changes within DHS.

- 6) Will this rulemaking replace any emergency rulemaking currently in effect?  
 Yes

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Does this rulemaking contain incorporations by reference? No

- 9) Are there any other proposed rulemakings pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Ms. Susan Weir, Bureau Chief



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Bureau of Administrative Rules and Procedures  
 Department of Human Services  
 100 South Grand Avenue East  
 3rd Floor Harris Bldg.  
 Springfield IL 62762  
 217/785-9772

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Not-for-Profits and other providers of service.
- B) Reporting, bookkeeping or other procedures required for compliance: Preparing Medicaid reimbursement forms.
- C) Types of professional skills necessary for compliance: Accounting skills.

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: this rulemaking was not anticipated at the time the latest Regulatory Agenda was prepared.

The full text of the proposed Amendments is identical to the text of the Emergency Amendments appearing in this issue of the Illinois Register on page 8834.

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

1) Heading of the Part: Viatical Settlements

2) Code Citation: 50 Ill. Adm. Code 5701

3) Section Numbers:

5701.10	<u>Proposed Action:</u>
5701.20	New Section
5701.30	New Section
5701.40	New Section
5701.50	New Section
5701.60	New Section
5701.70	New Section
5701.80	New Section
5701.90	New Section
5701.100	New Section
5701.110	New Section
5701.120	New Section
5701.130	New Section
APPENDIX A	New Section

4) Statutory Authority: Implementing and authorized by Sections 35(d) and 50 of the Viatical Settlements Act [215 ILCS 158/35(d) and 50].

5) A Complete Description of the Subjects and Issues Involved: Pursuant to P.A. 88-484, effective June 21, 1996, the Department is promulgating this new rule to set minimum standards for viaticating life insurance policies, licensing viatical settlement agents and providers, and setting forth electronic reporting requirements for viatical settlement providers.

6) Will this proposed Rule replace an emergency rule currently in effect? No

7) Does this Rule contain an automatic repeal date? No

8) Does this proposed Rule contain incorporations by reference? Yes. Please see Sections 5701.30, 5701.60(a)(3)(A) and 5701.70(j) of this Part.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This new rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

David Van Lieshout  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
217/782-8216

Denise Hamilton  
Department of Insurance  
320 West Washington  
Springfield, Illinois 62767-0001  
217/785-8560

12) Initial Regulatory Flexibility Analysis: The Department has determined that this new rule will affect "small businesses" as that term is defined in Section 1-75 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75]. This new rule applies to viatical settlement agents and viatical settlement providers as are herein defined in Section 5701.30 of this Part.

13) Regulatory Agenda on which this Rule was summarized: July 1996

The full text of the Proposed Rule begins on the next page:

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER nnn: VIATICAL SETTLEMENTS

PART 5701  
VIATICAL SETTLEMENTS

Section	Purpose
5701.10	Applicability and Scope
5701.20	Definitions
5701.30	License Requirements for Viatical Settlement Providers
5701.40	Standards for Evaluation of Reasonable Payments
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APPENDIX A Notice Regarding Viatication of Your Life Insurance Policy or Certificate

AUTHORITY: Implementing and authorized by Sections 35(d) and 50(1) of the Viatical Settlements Act [215 ILCS 158/35(d) and 50(1)].

SOURCE: Adopted at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## Section 5701.10 Purpose

The purpose and intent of this Part is to assure that Illinois residents are provided adequate disclosure, fair and equitable payouts and expeditious settlements from viatical settlement providers, viatical settlement agents and insurance companies when viaticating a life insurance policy or certificate.

## Section 5701.20 Applicability and Scope

- a) This Part shall apply to any individual, partnership, corporation or other entity making or proposing to make a viatical settlement contract as defined in Section 5701.30 of this Part, including but not limited to negotiating, signing or doing any act in this State in furtherance of making or proposing to make a viatical settlement contract. This Part shall also apply to any act of solicitation or advertising by mail, telephone or any other method of presenting,



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distributing, issuing, circulating or permitting to be issued or circulated any information or material in this State for the purpose of making a viatical settlement contract.

- b) Immediate family members wishing to pay compensation or anything of value for the life insurance policy of a family member in return for the policyowner's or certificateholder's assignment, transfer, sale, devise, bequest or pledge of the death benefit or ownership of the life insurance policy or certificate to such person shall not be deemed a viatical settlement agent or viatical settlement provider.

**Section 5701.30 Definitions**

Act means the Viatical Settlements Act [215 ILCS 158].

Catastrophic Illness means a chronic illness or physical condition:

rendering the individual unable to perform at least two of these six activities of daily living: eating, toileting, transferring, bathing, dressing or continence;

requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or

having a level of disability similar to that described in the first subparagraph of this definition as determined by the Secretary of Health and Human Services.

Director means the Director of the Illinois Department of Insurance.

Death benefit means the amount of the life insurance policy or certificate to be viaticated less any or all outstanding debts, liens or benefit accelerations.

Insured means the person covered under the life insurance policy or certificate being considered for viatication.

Life Expectancy means the number of months the individual insured under the life insurance policy or certificate to be viaticated can be expected to live as determined by the viatical settlement provider based upon medical records and appropriate experiential data.

Patient Identifying Information means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, social security number, or any other information that is likely to lead to the identification of the insured.

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Terminal Illness means an illness or physical condition that can reasonably be expected to result in death within 24 months or less as certified or upon diagnosis by a physician licensed to practice medicine in all of its branches.

Viator means a person who owns a life insurance policy, or who owns or is covered under a group policy, insuring the life of a person with a catastrophic or life threatening illness or condition who enters into an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. [215 ILCS 158/5]

Viatical Settlement Agent means an individual, partnership, corporation, or other entity who, through appointment by at least one viatical settlement provider and for a fee, commission, or other valuable consideration, offers or advertises the availability of viatical settlements, introduces viators to viatical settlement providers, or offers or attempts to negotiate viatical settlements between a viator and one or more viatical settlement providers. "Viatical settlement agent" does not include an attorney licensed to practice law, a public accountant as defined in the Illinois Public Accounting Act, or a person licensed under the Debt Management Service Act retained to represent the viator whose compensation is not paid by the viatical settlement provider. [215 ILCS 158/5]

Viatical Settlement Contract means a written agreement entered into between a viatical settlement provider and a person who owns a life insurance policy or who owns or is covered under a group policy, insuring the life of a person who has a catastrophic or life threatening illness or condition. The agreement shall establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. [215 ILCS 158/5]

Viatical Settlement Provider means an individual, partnership, corporation, or other entity that enters into an agreement with a person who owns a life insurance policy, or who owns or is covered under a group policy, insuring the life of a person who has a catastrophic or life threatening illness or condition, under the terms of which the viatical settlement provider pays compensation or

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providers to adjust the percentages set forth in subsection (a) above, by up to 10%, upon the determination by the Director that economic conditions have changed to such an extent that such variance is warranted. The minimum percentage of the death benefit the viator receives can never be less than 50%.

Section 5701.60 Reporting Requirements

a) Pursuant to Section 25(a) of the Act, on March 1 of each calendar year, every viatical settlement provider shall file an annual report with the Director. The report must contain the following information for the previous calendar year and be filed in hard copy or be made by electronic method of transfer in the format prescribed by the Director. The Director may require other information as may be necessary from time to time.

- 1) For viatical settlement transactions with viators in this State:
- A) Number of policies viaticated categorized by insurance company and policy type;
  - B) Date viatical settlement contract entered into;
  - C) Life expectancy of insured at time of contract;
  - D) Face amount of policy;
  - E) Death benefit;
  - F) Amount paid by the viatical settlement provider to viaticate the policy.

2) For viatical settlement transactions with viators in this State when death has occurred:

- A) Number of policies viaticated categorized by insurance company and policy type;
- B) Date viatical settlement contract entered into;
- C) Life expectancy of insured at time of contract;
- D) Face amount of policy;
- E) Death benefit;
- F) Amount paid by the viatical settlement provider to viaticate the policy;
- G) Date of death; and
- H) Total insurance premiums paid by viatical settlement provider to maintain the policy in force.

3) For all viatical settlement transactions (nationwide):

- A) Number of applications received, accepted and rejected, by International Classification of Diseases, 9th Revision, Clinical Modification (ICD-9-CM) disease category, if applicable;
- B) Number of policies viaticated categorized by insurance company and policy type.

4) Portfolio size (policy face value aggregate).

b) In addition to compliance with this Section, viatical settlement providers shall inform the Director, in writing within 30 days, of any material change to any information previously filed with the Director.

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anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. "Viatical settlement provider" does not include:

a licensed insurance company, bank, savings bank, savings and loan association, credit union, commercial finance company or other licensed lending institution, investment company registered under the Investment Company Act of 1940, pension plan qualified under Section 401(a) of the Internal Revenue Code of 1986, or trust funding such a pension plan that takes an assignment of a life insurance policy only as collateral for a loan;

sophisticated investors meeting the standards of subsection H of Section 4 of the Illinois Securities Law of 1953 [815 ILCS 5/4(H)] who invest in or lend to a licensed viatical settlement provider or other persons who so invest pursuant to a registered security offering; or

the issuer of a life insurance policy providing accelerated benefits under the Illinois Insurance Code. [215 ILCS 158/5]

Section 5701.40 License Requirements for Viatical Settlement Providers

A viatical settlement provider shall not enter into or solicit a viatical settlement contract without first obtaining a viatical settlement provider license from the Director. The Director may ask for such information as is necessary to determine whether the applicant complies with the requirements of Section 10 of the Act.

Section 5701.50 Standards for Evaluation of Reasonable Payments

a) A reasonable return for viaticating a life insurance policy or certificate shall be no less than the following payout ratios:

Life Expectancy of the Insured	Minimum Percentage of Death Benefit Received by Viator
--------------------------------	--

Less than 6 months	80%
At least 6 but less than 12 months	75%
At least 12 but less than 18 months	70%
At least 18 but less than 24 months	60%
24 months or more	50%

b) The Director shall have the discretion to permit viatical settlement



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## Section 5701.70 General Rules

- a) Prior to the time a viatical settlement application is taken, Appendix A must be given to the viator.
- b) With respect to policies containing a provision for double or additional indemnity for accidental death, the additional payment shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical settlement provider, as the viator may thereafter designate, or in the absence of a beneficiary, to the estate of the insured.
- c) Payment of the proceeds of a viatical settlement shall be by means of wire transfer to the account of the viator or an account of the viator's choice, or by certified check or cashier's check.
- d) Payment of the proceeds to the viator pursuant to a viatical settlement shall be made in a lump sum except where the viatical settlement provider has purchased an annuity or similar financial instrument issued by a licensed insurance company or bank, or an affiliate of either. Retention of a portion of the proceeds by the viatical settlement provider or escrow agent is not permissible.
- e) No viatical settlement provider or viatical settlement agent shall discriminate in the making or solicitation of viatical settlements on the basis of race, age, sex, national origin, creed, religion, occupation, marital or family status or sexual orientation, or discriminate between an insured with or without dependents.
- f) Contacts with the insured for the purpose of determining the health status of the insured by the viatical settlement provider or viatical settlement agent after the viatical settlement has occurred must be limited to once every 3 months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less. Any contract between a viatical settlement provider and a repurchaser of a viatical settlement from the viatical settlement providers on the secondary market must contain language consistent with the provisions of this subsection limiting the repurchaser's contacts with the insured. The viatical settlement provider or viatical settlement agent shall explain the procedure for these contacts at the time the viatical settlement contract is entered. Contacts necessary to maintain the policy in force or contacts initiated by the insured are exempt from the limitations contained in this subsection.
- g) Viatical settlement providers and viatical settlement agents shall not solicit investors who have treated, have been asked to treat or could influence the treatment of the illness of the insured whose coverage would be the subject of the investment.
- h) Viatical settlement providers and viatical settlement agents shall maintain records, books, files and other pertinent information pertaining to all viatical settlement transactions for 7 years following the insured's death.

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## i) Advertising Standards:

- 1) Advertising must be truthful and not misleading.
- 2) The names and identities of viatical settlement providers shall be clearly identified in all advertisements. No viatical settlement agent shall use advertising unless such advertisement has been previously approved by the viatical settlement provider who appointed the viatical settlement agent.
- j) Any sale by a viatical settlement provider of viatical settlement contracts, viatical policies or interest therein that constitutes a "security" within the meaning of the U.S. Securities Act of 1933, as amended, or the Illinois Securities Law of 1953 [815 ILCS 5] shall be registered pursuant to those statutes unless there is an exemption from registration under those statutes.
- k) The statement procured by the viatical settlement provider entering into a viatical settlement contract from a licensed attending physician stating that the insured is of sound mind and under no constraint or undue influence may be based on the professional opinion of, and information available to, the physician, subject to disclaimers customary in medical opinions.
- l) With respect to the assignment, transfer, sale, devise, bequest or pledge of a viatical policy, the viatical settlement provider must furnish to the insurance company proof that the viatical settlement provider holds a current Illinois viatical settlement provider license.
- m) If a viatical settlement provider enters into a viatical settlement that allows the viator to retain an interest in the policy, the viatical settlement contract shall contain the following provisions:
  - 1) A provision that the viatical settlement provider will effect the transfer of the amount viatical. Benefits in excess of the amount viatical shall be paid directly to the previously named beneficiary by the insurance company;
  - 2) A provision that the viatical settlement provider will, upon acknowledgment of the perfection of the transfer, either:
    - A) advise the insured, in writing, that the insurance company has confirmed the viator's interest in the policy; or
    - B) send a copy of the instrument from the insurance company to the viatical settlement company acknowledging the viator's interest in the policy; and
  - 3) A provision that apportions the premiums to be paid by the viatical settlement company and the viator. It is permissible for the viatical settlement contract to specify that all premiums shall be paid by the viatical settlement company. The contract may also require that the viator reimburse the viatical settlement provider for the premiums attributable to the retained interest.

## Section 5701.80 Prohibited Practices

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- a) A viatical settlement provider or viatical settlement agent shall not provide patient identifying information to any person, unless the insured has given written consent to release that information pursuant to subsection (b) of this Section.
- b) A viatical settlement provider, or viatical settlement agent must obtain from a person that is provided with patient identifying information a signed affirmation that the person or entity will not further divulge the information without procuring the express written consent of the insured for the disclosure. If a viatical settlement provider or viatical settlement agent is served with a subpoena, and is therefore compelled to produce records containing patient identifying information, the provider or agent must notify the insured in writing at the last known address within 5 days after receiving notice of the subpoena.
- c) A viatical settlement provider or viatical settlement agent cannot collect any fees from the viator except for the death benefit.
- d) Based upon the medical records of the insured a viatical settlement provider must not use a longer life expectancy than is realistic in order to reduce the payout to the viator.

## Section 5701.90 Insurance Company Practices

This Section shall be applicable to insurance companies.

- a) Every insurance company that is licensed to do business in this State shall provide the specified information requested on the status of a policyowner's policy or certificateholder's certificate, within 10 business days after the receipt of the following documents in the home office of the insurance company:
  - 1) An authorization signed by a policyowner or a certificateholder to release specified information regarding the policy or certificate to a named viatical settlement provider or named viatical settlement agent; and
  - 2) A request in writing from the named viatical settlement provider or named viatical settlement agent for the specified policy or certificate information.
- b) An issuer of a group life insurance policy shall, within 10 business days after the receipt in its home office of a written request from a certificateholder for conversion to an individual life insurance policy, mail or deliver the conversion policy to the policyholder where:
  - 1) The request for conversion is in compliance with the conversion provision in the policy; and
  - 2) The certificateholder has indicated that the conversion is being requested for the purpose of entering into a viatical settlement contract.
- c) Nothing in subsection (a) or (b) is intended to prohibit a person insured under a life insurance policy from assigning the rights or benefits under that policy to a viatical settlement provider.

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- d) No policy of life insurance issued or in existence in this State that permits assignment of a covered person's rights shall restrict the insured from making assignments other than by gift.
- e) Nothing in this Part shall be interpreted to require notice to the Director of, or restrict an insurance company from investing or participating in, or purchasing any securities issued in, any transaction (including without limitation any financing, any securitization transaction or any securities offering), in which the viatical settlement provider assigns, transfers, sells, devices, bequests, pledges, or otherwise disposes of a viatical settlement contract, viaticated policy or any interest therein.
- f) With respect to the assignment, transfer, sale, devise, bequest or pledge of a viaticated policy, the viatical settlement provider must furnish to the insurance company proof that the viatical settlement provider holds a current Illinois viatical settlement provider license.

## Section 5701.100 Viatical Settlement Contract

- a) Viatical settlement contracts must be made in writing and must establish the terms under which the viatical settlement provider will pay compensation to the viator and the terms of the assignment, transfer, sale, devise or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.
- b) Viatical settlement contracts must include the following provisions:
  - 1) The contract must be clearly titled "Viatical Settlement Contract."
  - 2) A unique form number must be assigned to the contract and the number must be located in the lower left-hand corner of the first page of the contract.
  - 3) A notice must be included that the viator may rescind the viatical settlement contract within 30 days after the date the contract is executed by all parties or within 15 days after the receipt of the viatical settlement proceeds, whichever is less.
  - 4) A method for the viator to give notice of rescission.
  - 5) A notice that if the viator elects to rescind the viatical settlement contract, the viatical settlement providers' rights or interest in the life insurance policy or certificate will terminate immediately upon the viator giving notice of rescission and tendering of settlement proceeds.
  - 6) A notice that if the insured dies during the rescission period, the viatical settlement contract will be deemed null and void.
  - 7) A notice regarding the change of beneficiary.
  - 8) Disclosure of the name, address and telephone number of the viatical settlement provider and escrow agent or trustee.
  - 9) A statement that the viatical settlement provider will effect the transfer of the ownership of the insurance policy or policies and



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will pay the full lump sum settlement, along with any interest that has accrued, by the end of the next business day after receipt of the documents from the viator, to an escrow or trust account managed by an escrow or trustee agent in a licensed state or federally chartered financial institution with whom the viatical settlement provider has no affiliation other than as a depositor.

10) A notice of the specific date by which the viatical settlement funds will be available to be dispersed and the source of these funds.

11) A statement that if the viatical settlement payment is not tendered by the date disclosed to the viator, the contract is deemed null and void.

12) A notice that if the life insurance policy or policies or certificate to be viaticated provides for the payment of a supplemental benefit on the life of a person or persons covered under the policy or policies or certificate other than the viator, and the viatical settlement provider has agreed to continue those benefits, the viatical settlement contract shall provide for the payment of the supplemental benefits to the personal representative of the person insured, or to a person having an insurable interest in the person insured.

13) A notice that if the viatical settlement provider has agreed by contract to continue any benefits in accordance with subsection (b)(12) above, the policy or policies or certificate must be endorsed by the insurer with the appropriate designation of irrevocable beneficiary or beneficiaries as permitted by subsection (b)(12) above prior to the transfer of policy or policies or certificate ownership.

**Section 5701.110 Approval of Contracts and Related Forms**

a) No viatical settlement provider may use any viatical settlement contract or related forms in this State unless filed with and approved by the Director. Related forms include, but are not limited to, any application, proposal or disclosure form that contains information required by law or regulation.

b) The Director shall not approve a viatical settlement contract or related form if the contract contains language that is unreasonable, contrary to public interest or otherwise misleading or unfair, or is contrary to the provisions of the Viatical Settlement Acts or this Part.

**Section 5701.120 Application for a Viatical Settlement**

The application for the viatical settlement must contain the following:

a) A unique form number located in the lower left-hand corner of the first page of the application.

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b) Name of the insurance company and the insured for which the certificate, policy or policies are to be viaticated.

c) Disclosure of the death benefit shall be identified at the time of application of the life insurance policy or policies or certificate.

d) A question as to the availability of an accelerated death benefits option, if any, offered by the applicant's insurer. If the life insurance policy or policies or certificate contain this supplemental benefit, the applicant must be advised to contact his or her insurer for guidance.

e) A statement that if the life insurance policy, policies or certificate contains a supplemental benefit on persons other than the viator, the application must disclose this benefit and provide notice of the consequences the viatical settlement will have on this supplemental insurance benefit.

f) A statement that if the life insurance policy or certificate contains a supplemental benefit that provides for additional payment other than the death benefit, the viatical settlement provider shall provide payment of those benefits to the previously named beneficiary or estate, contingent upon the viatical settlement provider agreeing to continue this benefit.

g) Disclosure of the Illinois Viatical Settlement License number of the provider.

h) A notice prominently displayed that "RECEIPT OF THE VIATICAL SETTLEMENT MAY AFFECT ELIGIBILITY FOR PUBLIC ASSISTANCE PROGRAMS AND MAY BE TAXABLE. YOU SHOULD CONSULT YOUR SOCIAL SERVICE AGENCY AND QUALIFIED TAX ADVISOR CONCERNING HOW THE PAYMENT OF A VIATICAL SETTLEMENT WILL AFFECT YOU, YOUR SPOUSE OR YOUR DEPENDENTS."

i) The applicant's consent to the viatical settlement contract; an acknowledgment by the applicant that he or she has a terminal or catastrophic illness; and the applicant's representation that he or she has a full and complete understanding of the viatical settlement and is of sound mind and under no undue constraint or influence.

j) A notice that the viatical settlement proceeds may be subject to claims of creditors.

k) Notice that the viator has the right to rescind the viatical settlement contract within 30 days after the date the contract is executed by all parties to the contract or within 15 days after the receipt of the viatical settlement proceeds, whichever is less.

l) A notice that if the insured dies during the rescission period, the viatical settlement contract will be deemed null and void.

**Section 5701.130 Notice Regarding the Viatical Settlement Contract**

Upon receipt of an application, and after determining the value to be offered in return for assignment, transfer, sale, devise or bequest of the death benefit or ownership of the life insurance policy or certificate to the viatical settlement provider, the viatical settlement provider must deliver to the viator a disclosure titled "Notice Regarding Viatication of Your Life

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Section 5701 APPENDIX A Notice Regarding Viatication of Your Life Insurance Policy or Certificate

Notice Regarding Viatication  
of Your Life Insurance  
Policy or Certificate

Illinois law permits an individual who has a catastrophic or terminal illness to sell his or her life insurance policy. This sale is referred to as "viatication," but for ease of understanding, we will use terms such as "sale", "sell", and "buy" throughout this notice.

You should be aware of certain facts about viatication. You are entitled to certain legal protections before you sell your life insurance policy or certificate. This notice contains general information that will help you make a decision. This notice also contains specific information about your life insurance and the viatical settlement provider's offer. This information will help you make a careful comparison between your life insurance benefits and the benefits you will receive if you sell your life insurance policy or certificate.

Part 1. Some Basic Facts About Your Life Insurance

A. The insurance policy or policies or certificate you are proposing to sell is with:

- 1. Life Insurance Company: \_\_\_\_\_  
Policy Number: \_\_\_\_\_
- 2. Life Insurance Company: \_\_\_\_\_  
Policy Number: \_\_\_\_\_
- 3. Life Insurance Company: \_\_\_\_\_  
Policy Number: \_\_\_\_\_

B. The expected death benefit is defined by the policy, policies or certificate you are considering selling, as of the date the viatical settlement contract is signed. The expected death benefit is:

- 1. \$ \_\_\_\_\_
- 2. \$ \_\_\_\_\_
- 3. \$ \_\_\_\_\_

C. Your expected death benefit will remain stable for at least the next five years.

Yes \_\_\_\_\_ No \_\_\_\_\_ (If this section is checked "Yes", you should skip to D below.)

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Insurance Policy or Certificate" containing the specific required information as set forth in Appendix A of this Part.

- a) The viatical settlement provider must keep:
  - 1) A copy of the disclosure given to the viator.
  - 2) A signed acknowledgment by the viatical settlement provider and the viator that the proposal was delivered to the viator on the date specified on the acknowledgment and the application.
- b) A copy of the viatical settlement provider's disclosure must be sent to the viatical settlement agent who will retain the copies with the viator's files.



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Your expected death benefit will increase over the next five years, and if you do not sell your life insurance, your death benefit for these years will be:

1st Year Death Benefit: \$ \_\_\_\_\_  
 2nd Year Death Benefit: \$ \_\_\_\_\_  
 3rd Year Death Benefit: \$ \_\_\_\_\_  
 4th Year Death Benefit: \$ \_\_\_\_\_  
 5th Year Death Benefit: \$ \_\_\_\_\_

D. Does your policy or certificate have a cash surrender value?

Yes \_\_\_\_\_ No \_\_\_\_\_ (If this block is checked "No", you should skip to Part 2, "The Viatical Settlement Contract Proposal.")

OR

The current cash surrender value of your life insurance policy or policies or certificate is: \$ \_\_\_\_\_

Because you have a loan on the policy or certificate of \$ \_\_\_\_\_, then the net cash surrender value is: \$ \_\_\_\_\_

OR

Since you do not have a loan on the policy, policies or certificate, the net cash surrender value is the same as current cash surrender value.

### Part 2. The Viatical Settlement Contract Proposal

A. The viatical settlement provider who is offering to buy your policy or policies or certificate is:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Illinois Viatical Settlement Provider License Number: \_\_\_\_\_

B. The viatical settlement provider is offering to buy your policy, policies or certificate for:

(Amount)

1. \$ \_\_\_\_\_

2. \$ \_\_\_\_\_

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3. \$ \_\_\_\_\_

This amount represents \_\_\_\_\_ % of the expected death benefit.

**IMPORTANT NOTE:** THE AMOUNT THE VIATICAL SETTLEMENT PROVIDER IS OFFERING YOU DEPENDS ON YOUR REMAINING LIFE EXPECTANCY. IF YOU WISH TO KNOW THE LIFE EXPECTANCY FIGURE THE VIATICAL SETTLEMENT COMPANY IS USING AND PAYOUT FOR THAT LIFE EXPECTANCY, YOU HAVE A RIGHT TO THAT INFORMATION AND YOU MAY REQUEST THE INFORMATION FROM THE VIATICAL SETTLEMENT PROVIDER WHO COMPLETED THIS NOTICE.

#### IMPORTANT NOTE:

\* SOME OR ALL OF THE PROCEEDS OF THE VIATICAL SETTLEMENT MAY BE TAXED UNDER BOTH INCOME AND ESTATE TAX LAWS. A PERSONAL TAX ADVISOR SHOULD BE CONSULTED.

\* THE PROCEEDS OF THE VIATICAL SETTLEMENT MAY BE SUBJECT TO THE CLAIMS OF CREDITORS.

\* THE RECEIPT OF PROCEEDS FROM A VIATICAL SETTLEMENT MAY ADVERSELY AFFECT YOUR ELIGIBILITY FOR MEDICAID OR OTHER GOVERNMENT BENEFITS OR ENTITLEMENTS. YOU SHOULD SEEK ADVICE FROM THE APPROPRIATE AGENCIES.

\* THE RECEIPT OF PROCEEDS COULD ADVERSELY AFFECT ANY SUPPLEMENTAL BENEFITS COVERING YOUR SPOUSE OR DEPENDENTS. YOU SHOULD SEEK ADVICE FROM YOUR INSURANCE COMPANY AS TO THE CONSEQUENCES THIS VIATICAL SETTLEMENT WILL HAVE ON THEIR ELIGIBILITY.

### Part 3. How Would Your Viatication Work?

A. When you receive the proposal, it will also tell you the date by which the viatical settlement proceeds will be available to you and the source of the proceeds, i.e., the bank or other trustee or escrow agent that will send you the proceeds. The viatical settlement contract and transfer of the policy is deemed null and void if the viatical settlement provider fails to tender payment of the proceeds as provided in the viatical settlement contract.

B. Payment of the proceeds of a viatical settlement shall be by means of wire transfer to you or an account of your choice, or by certified check or cashier's check.

C. If you decide to enter into the viatical settlement contract, you have an unconditional right to rescind the contract within 30 days after the date you and the viatical settlement provider sign the contract, or within 15 days after the receipt of the viatical settlement proceeds, whichever is

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PROVIDER HAS THE RIGHT TO ADJUST THE OFFER IT IS MAKING TO COVER THE COST OF THE PREMIUMS IT WILL PAY TO KEEP THESE ADDITIONAL BENEFITS OR RIDERS IN FORCE.

C. You can get a loan against the net cash surrender value from the insurance company before you sell your policy, policies or certificate. Interest would have to be paid on the loan. You can obtain a loan from the insurance company in the amount of \$\_\_\_\_\_ and interest would be \$\_\_\_\_\_ and be payable by \_\_\_\_\_. The amount that you would receive on the sale of your life insurance policy, policies or certificate would be reduced to \$\_\_\_\_\_.

Part 5. There May Be Other Options Available

If you are thinking of entering into a viatical settlement contract, you are strongly encouraged to explore other options before you make a decision. There may be services and support agencies that could help you meet your needs and allow you to keep your life insurance policy or policies in force.

If you have any questions about viatication, you may also call the Illinois Department of Insurance Springfield Office 217-782-4515 or Chicago Office 312-814-2427. To view a list of licensed viatical settlement providers please visit the Department's web site at [www.state.il.us/ins](http://www.state.il.us/ins).

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less.

If you die during this 30 day rescission period, the viatical settlement contract would automatically be void, and your designated beneficiaries would receive your life insurance benefit.

Part 4. Alternatives to Selling Your Life Insurance

A. Some insurance policies and certificates have a provision for an accelerated death benefit, which might be a good alternative to selling your life insurance policy.

Your insurance policy, policies or certificate does not have an accelerated death benefit provision.

OR

Your insurance policy, policies or certificate does have an accelerated death benefit provision. You should contact your insurance producer or company to determine what your accelerated death benefit provisions are and how much money would be available.

The insurance company name is: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone Number: \_\_\_\_\_

B. You may wish to sell only the basic death benefit and retain additional benefits or optional riders that are a part of your current policy, policies or certificate.

You do not have any additional benefits or optional riders attached to your policy, policies or certificate. (You may skip the rest of this section.)

OR

The following additional benefits or optional riders are attached to your policy, policies or certificate.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IMPORTANT NOTE: IF YOU WISH TO RETAIN ANY OF THESE BENEFITS OR RIDERS, YOU WILL NEED TO DETERMINE AND NEGOTIATE AN ADJUSTMENT TO THE AMOUNT THE VIATICAL SETTLEMENT PROVIDER IS OFFERING YOU. THE VIATICAL SETTLEMENT



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: AIDS Drug Assistance Program2) Code Citation: 77 Ill. Adm. Code 6923) Section Numbers:  
692.10 Proposed Action:  
692.Appendix A Amendment4) Statutory Authority: Implementing Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff) and authorized by Section 55.41 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.41].5) A Complete Description of the Subject and Issues Involved: This rulemaking specifies that the Department will have a maximum of 15 days to issue a written decision on applications for the AIDS Drug Assistance Program (ADAP). Currently the Department has 30 days to notify applicants of its decision. The amendments also update the federal Poverty Income Guidelines in Appendix A, to reflect 1999 levels, and include the maximum annual income levels for ADAP eligibility. By specifying the maximum income levels, the Appendix reflects an existing eligibility requirement of the program, which specifies 400% of the Federal Poverty Level as the income level that shall not be exceeded for persons to qualify financially for the program.6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No7) Does this Rulemaking Contain an Automatic Repeal Date? No8) Does this Rulemaking Contain any Incorporations by Reference? No9) Are there any other Proposed Amendments Pending on this Part? No10) Statement of Statewide Policy Objectives: This rulemaking will not create or expand a State mandate.11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the *Illinois Register* to:

Gail M. DeVito  
 Division of Legal Services  
 Illinois Department of Public Health  
 535 West Jefferson, Fifth Floor  
 Springfield, Illinois 62761  
 (217)782-2043  
 (E-mail: rules@idph.state.il.us)

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12) Initial Regulatory Flexibility Analysis:A) Type of Small Businesses Affected: This rulemaking will not affect small businesses.B) Reporting, Bookkeeping or Other Procedures Required for Compliance:  
NoneC) Types of Professional Skills Necessary for Compliance: None13) Date of regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for this rulemaking was not apparent when the regulatory agenda was finalized.The full text of the Proposed Amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

## PART 692

## AIDS DRUG ASSISTANCE PROGRAM

## Section

692.10 Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection

## APPENDIX A 1999 1998 Poverty Income Guidelines

## APPENDIX B CARE Act Sliding Fee Scale

**AUTHORITY:** Implementing Title II of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 USC 300ff), and authorized by Section 55.41 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.41].

**SOURCE:** Emergency rule adopted at 15 Ill. Reg. 14699, effective September 30, 1991, for a maximum of 150 days; adopted at 16 Ill. Reg. 4052, effective February 27, 1992; emergency amendment at 17 Ill. Reg. 12913, effective July 23, 1993, for a maximum of 150 days; emergency expired December 20, 1993; amended at 18 Ill. Reg. 1427, effective January 20, 1994; amended at 18 Ill. Reg. 17678, effective November 30, 1994; amended at 20 Ill. Reg. 7531, effective May 15, 1996; emergency amendment at 20 Ill. Reg. 8353, effective June 4, 1996, for a maximum of 150 days; emergency expired November 1, 1996; amended at 21 Ill. Reg. 1203, effective January 10, 1997; amended at 22 Ill. Reg. 14468, effective July 24, 1998; amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 692.10 Drugs to Prolong the Lives of Non-Medicaid Persons with Acquired Immunodeficiency Syndrome (AIDS) or Human Immunodeficiency Virus (HIV) Infection**

Drugs provided under this Section are paid for on behalf of low income individuals with Acquired Immunodeficiency Syndrome (AIDS) or persons with the Human Immunodeficiency Virus (HIV).

a) To qualify for services under this Section, a person must be enrolled in the AIDS Drug Assistance Program as of June 4, 1996, or:

- 1) make application with annual renewal to the Illinois Department of Public Health (Department);
- 2) be diagnosed as having AIDS or HIV;
- 3) on or after August 1, 1998, qualify financially with anticipated gross monthly income at or below 400% of the Federal Poverty Level for the size of the household (see Appendix A);
- 4) not be eligible for 80% or greater insurance coverage for drugs through another third party payor;
- 5) not be eligible for the Medical Assistance Program (Medicaid) on

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

the date drugs are obtained (individuals with financial/medical assistance applications pending or individuals in spenddown unmet status may participate);

6) not be eligible for payment for prescription drugs from any other governmental entity; and

7) be a legal resident of Illinois, as defined by Section 2-10 of the Public Aid Code [305 ILCS 5/2-10], except that:

A) the provision of Section 2-10 of the Public Aid Code stating that applicants for or recipients of public aid must meet such durational requirements as to residence contained in applicable Sections of the Public Aid Code shall not apply to this Part; and

B) the provision of Section 2-10 of the Public Aid Code regarding recipients of aid under Article III, IV, or VI [305 ILCS 5/Art. III, IV or VI] shall apply to any recipient of services under the AIDS Drug Assistance Program.

b) Persons enrolled in the AIDS Drug Assistance Program must reapply annually in order to continue receiving drugs through the Program.

- 1) Renewal applications must be received by the Department by the expiration date of the client's current enrollment.
- 2) If a renewal application is not received by the Department within 15 days after the expiration date of the client's current enrollment, the client will be removed from the Program and will be required to meet the eligibility requirements of subsections (a)(1) through (7) of this Section in order to continue receiving drugs through the Program.

c) The Department may suspend a client's enrollment in the AIDS Drug Assistance Program under the following circumstances:

- 1) submittal of fraudulent application information by an applicant or client;
  - 2) failure to submit an application by the due date;
  - 3) failure to utilize the Program for a six month period.
- d) Subject to the availability of funds the Department may implement cost control measures such as client benefit maximums or limitations on new enrollments.

e) All drugs provided under the AIDS Drug Assistance Program have been approved by the federal Food and Drug Administration. The following categories of drugs may be covered under the AIDS Drug Assistance Program. The Department, with the advice of the medical issues subcommittee of the Title II Ryan White AIDS Advisory Council, will determine which drugs will be covered, based on criteria that include the medical appropriateness of the drug for treatment of HIV/AIDS and associated complications:

Category I - Drugs for Anti-Retroviral Therapy;

Category II - Drugs for PCP Prophylaxis and Treatment;

Category III - Drugs for Prophylaxis and Treatment of Opportunistic Infections and Anti-Microbials;

Category IV - Drugs for Treatment of Neoplasms; and



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- Category V - Other Drugs Requiring Prior Approval.
- f) All prescriptions must be filled by the Department's ~~sole~~ pharmacy contractors ~~contractor~~.
- g) The Department may require participants to pay a copayment for prescriptions received. If a copayment is charged, it must not exceed the sliding fee structure specified in Title II of the CARE Act (see Appendix B).
- h) The Department will make a disposition and issue a written decision on an application filed pursuant to this Section within 15 30 days from the date the Department receives the application. The Department will make a disposition and issue a written decision on a renewal application filed pursuant to this Section within 15 days from the date the Department receives the application. An individual may appeal the Department's denial of his/her application. Such appeal shall be in accordance with the Department's Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## Section 692.APPENDIX A 19991998 Poverty Income Guidelines

Size of Family Unit	Poverty Guideline (Gross Annual Income)	Maximum Gross Annual Income for ADAP Eligibility
1	\$ 8,240 87050	\$ 32,960
2	11,060 107050	44,240
3	13,880 137650	55,520
4	16,700 167450	66,800
5	19,520 197250	78,080
6	22,340 227050	89,360
7	25,160 247050	100,640
8	27,980 277650	111,920

For family units with more than 8 members, add \$2,820 27000 for each additional member.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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1) Heading of the Part: Lead Poisoning Prevention Code

2) Code Citation: 77 Ill. Adm. Code 845

<u>Section Numbers:</u>	<u>Proposed Action:</u>
845.10	Amendment
845.12	Amendment
845.20	Amendment
845.23	Amendment
845.26	Amendment
845.27	Amendment
845.28	Amendment
845.30	Amendment

4) Statutory Authority: Authorized by and implementing the Lead Poisoning Prevention Act [410 ILCS 45].

5) A Complete Description of the Subjects and Issues Involved: The lead poisoning prevention rules will be amended to implement a statutory change to the reporting requirements for clinical laboratories with respect to positive and negative blood lead test results. The revision allows negative results to be grouped and reported 30 days after the last day of the month in which the laboratory receives verification of the blood lead level. Positive results have to be reported within 48 hours. Requirements are clarified for inspection of dwellings based upon persistently high blood lead levels in a child. Other revisions will clarify Department policy concerning training requirements for lead inspectors, risk assessors, supervisors and workers, and approval criteria for training course providers. Also, new federal standards for environmental lead levels on horizontal and vertical structural surfaces are being incorporated into the rules.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain any Incorporations by Reference? Yes

9) Are there any Other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand any State mandates on units of local government.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* by writing to:

## DEPARTMENT OF PUBLIC HEALTH

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Gail M. DeVito  
Division of Legal Services  
Illinois Department of Public Health  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
217/782-2043

This rulemaking may have an impact on small businesses. Small businesses commenting on this rulemaking shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

A) Type of Small Businesses, Small Municipalities, and Not-For-Profit Corporations Affected: Lead abatement contractors and training course providers.

B) Reporting, Bookkeeping or Other Procedures Required for Compliance: Application procedures.

C) Types of Professional Skills Necessary for Compliance: None

13) Date of regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The need for this rulemaking was not anticipated.

The full text of the proposed amendments begins on the next page:



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER P: HAZARDOUS AND POISONOUS SUBSTANCES

## PART 845

## LEAD POISONING PREVENTION CODE

- Section
- 845.10 Definitions
- 845.12 Incorporated Materials
- 845.15 Lead Screening
- 845.20 Reporting
- 845.21 Provision of Data
- 845.23 Laboratory Fees for Blood Lead Screening
- 845.25 Case Follow-Up
- 845.26 Inspection of Dwellings, Residential Buildings or Child Care Facilities
- 845.27 Requirements for Lead Inspector, Risk Assessor, Worker, Supervisor, and Contractor Licensing
- 845.28 Approval of Training Program Providers
- 845.29 Safety Guidelines for Workers Removing or Covering Leaded Soil
- 845.30 Mitigation or Abatement of Lead Hazards
- 845.31 Lead Abatement Contractor Responsibilities
- 845.32 Lead Contractor/Supervisor Responsibilities
- 845.33 Dwellings Not Requiring Abatement or Mitigation
- 845.40 Approval of Units of Local Government or Health Departments as Delegate Agencies to Administer and Enforce the Lead Poisoning Prevention Act
- 845.50 Permissible Limits of Lead in and about Dwellings, Residential Buildings or Child Care Facilities
- 845.60 Placarding of Dwellings (Repealed)
- APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System
- EXHIBIT A Instructions for Completing the Laboratory Based Report of Childhood Lead Poisoning
- EXHIBIT B Instructions for Submitting Follow-Up Data for Children With Blood Lead Levels  $\geq 15$  mcg/dL
- EXHIBIT C Instructions for Reporting Information by Delegate Agencies on Environmental Inspection for Cases of 20 mcg/dL and Above (Repealed)
- APPENDIX B Testing for Lead in Paint by Portable X-Ray Fluorescence Lead in Paint Analyzer (XRF) (Repealed)
- APPENDIX C Diagrams of Building Components
- ILLUSTRATION A Inspection Forms and Diagram of Building Components (Repealed)
- APPENDIX D Recommended Setup and Use of a Negative Pressure System
- ILLUSTRATION A Examples of Negative Pressure Systems
- APPENDIX E Soil Sampling

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## APPENDIX F Childhood Lead Risk Assessment Questionnaire

## APPENDIX G Information Agreement

## APPENDIX H Childhood Lead Poisoning Assessment and Screening Algorithm

AUTHORITY: Authorized by and implementing the Lead Poisoning Prevention Act [410 ILCS 45].

SOURCE: Adopted July 15, 1976; amended at 2 Ill. Reg. 43, effective October 23, 1978; rules repealed; new rules adopted and codified at 6 Ill. Reg. 14849, effective November 24, 1982; amended at 7 Ill. Reg. 7652, effective June 14, 1983; amended at 8 Ill. Reg. 8242, effective May 25, 1984; amended at 10 Ill. Reg. 5138, effective April 1, 1986; amended at 17 Ill. Reg. 1884, effective February 1, 1993; amended at 19 Ill. Reg. 238, effective December 31, 1994; amended at 21 Ill. Reg. 7444, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 14680, effective October 31, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR objection at 22 Ill. Reg. 6252; amended at 22 Ill. Reg. 16000, effective August 20, 1998; amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parenthesis; subscript are denoted by brackets.

## Section 845.10 Definitions

"Act" means the Lead Poisoning Prevention Act [410 ILCS 45].

"Assessment" means administration of the risk assessment questionnaire to the parent.

"Chemical Spot Test" means the use of sodium rhodizonate to obtain a qualitative determination of lead.

"Child" means a person under the age of 16.

"Child Care Facility" means any structure used by a child care provider licensed by the Department of Children and Family Services or public school structure frequented by children under 6 years of age. (Section 2 of the Act)

"Compliance Sampling" means the activity of taking dust wipe samples after completion of mitigation or abatement activities, for the purpose of determining compliance with the Department's standard for lead dust levels or horizontal surfaces of less than 200 micrograms per square foot.

"Confirmed blood lead level" means that an elevated blood lead level is confirmed by a venous blood lead test.

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"Defective Surface" means peeling, flaking, chalking, scaling or chipping paint; paint over crumbling, cracking or falling plaster or plaster with holes in it; paint over a defective or deteriorating substrate; or paint that is damaged or worn down in any manner such that a child can get paint from the damaged area.

"Delegate Agency" means a unit of local government or health department approved by the Department to carry out the provisions of the Lead Poisoning Prevention Act. (Section 2 of the Act)

"Department" means the Department of Public Health of the State of Illinois. (Section 2 of the Act)

"Director" means the Director of the Department of Public Health of the State of Illinois.

"Dwelling" means any structure all or part of which is designed or used for human habitation. (Section 2 of the Act)

"Dwelling Risk Assessment" means an on-site investigation to determine the existence, nature, severity, and location of lead-based paint hazards and the provision of a report, by the individual or the firm conducting the risk assessment, explaining the results of the investigation and options for reducing lead-based paint hazards.

"Elevated results" means a blood lead test result of 10 micrograms/deciliter or higher.

"Encapsulant" means any liquid applied product which covers, seals, or encapsulates a lead-based painted surface in a manner which is designed to reduce human exposure to lead.

"Exposed Surface" means any interior or exterior surface of a dwelling or residential building. (Section 2 of the Act)

"Health Care Provider" means any person providing health care services to children, who is authorized pursuant to the Clinical Laboratory Act to request the testing of specimens, but does not include dentists.

"Health Care Provider" includes podiatrists and physicians other than those licensed to practice medicine in all its branches.

"HEPA Vacuum Equipment" means vacuuming equipment with a high efficiency particulate air filter capable of trapping and retaining 99.97 percent of particles greater than 0.3 micrometers in mass median aerodynamic equivalent diameter.

"Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining

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the results of the investigations.

"Intact surface" means a surface with no loose, peeling, chipping or flaking paint. Intact surfaces that are painted must be free from crumbling, cracking or falling plaster and should not have any holes. Intact surfaces must not be damaged or worn down in any way that would make paint from the damaged area accessible to children.

"Lead Abatement" means any activity that will result in the removal of windows, walls, floors, ceilings or exterior surfaces which may result in the creation of a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled during such activity.

"Lead Abatement Supervisor" means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and mitigation, and supervise lead abatement workers who perform lead abatement and mitigation. ("Lead Abatement Supervisor" was formerly called "Lead Abatement Contractor/Supervisor".)

"Lead Bearing Substance" means any dust on surfaces or in furniture or other nonpermanent elements of the dwelling and any paint or other surface coating material containing more than five-tenths of one percent (0.5%) lead by weight (calculated as lead metal) in the total nonvolatile content of liquid paint. The term "lead bearing substance" also includes lead bearing substances containing greater than one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or regulation; or more than 1 milligram per square centimeter in the dried film of paint or previously applied substance; or object containing lead in excess of the amount specified in this Part or a lower standard for lead as may be established by federal regulation. (Section 2 of the Act)

"Lead Hazard" means a lead bearing substance that poses an immediate health hazard to humans. (Section 2 of the Act)

"Lead Inspector" means an individual who has been trained by a Department approved training program to conduct inspections, sample for the presence of lead in dust and soil, and conduct abatement clearance testing.

"Lead Management Plan" means a written statement that describes how an intact surface with lead-based paint will be monitored to assure that, if the intact surface becomes defective, the defective surface will be abated or mitigated.

"Lead Mitigation" means the remediation of a lead hazard so that the



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lead bearing substance does not pose an immediate health hazard to humans. A lead hazard is deemed to have been mitigated if the surface that is the source of the lead hazard is no longer in a condition that produces a hazardous level of leaded chips, flakes, dust or any other form of leaded substances, that can be ingested or inhaled by humans; or if the leaded surface is accessible to children, the surface coating is covered or the access to the leaded surface by children is otherwise prevented.

*"Lead Poisoning"* means the conditions of having blood lead levels in excess of those considered safe under this Part (see "permissible limits") and federal rules and regulations. (Section 2 of the Act)

"Lead Risk Assessor" means an individual who has been trained by a Department approved training program to conduct risk assessments, sample for the presence of lead in dust and soil and conduct abatement clearance testing.

"Local Health Department" means the health department or board of health as recognized by the Department which has jurisdiction over the particular geographical area in which the person lives.

"Major Lead Abatement or Mitigation" means any abatement or mitigation activity that will result in the removal of windows, walls, floors, ceilings or exterior surfaces which may result in the creation of a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled.

"Negative Blood Lead Test Result" means a blood lead test with a blood lead level (PbB) of 9 micrograms/deciliter (mcg/dL) or less of whole blood in a child under age 16 years.

"Notice" means any written notification, as specified in this Part, to be issued by the Department or a delegate agency.

"Occupant" means any person who lives in a dwelling as defined in this Part.

*"Owner" means any person, who alone, jointly or severally with others:*

*Has legal title to any dwelling or residential building, with or without accompanying actual possession of the dwelling or residential building, or*

*Has charge, care or control of the dwelling or residential building as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner.*  
(Section 2 of the Act)

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## NOTICE OF PROPOSED AMENDMENTS

"Permissible limits" for reporting purposes means a confirmed blood lead level (PbB) of less than 10 micrograms/deciliter (mcg/dL) of whole blood in a child under age 16 years, less than 10 mcg/dL for a pregnant or breast-feeding woman and less than 25 mcg/dL for all other persons.

"Person" means any one or more natural persons, legal entities, governmental bodies, or any combination.

"Positive Blood Lead Test Result" means a blood lead level test with a blood lead level (PbB) of 10 micrograms/deciliter (mcg/dL) or higher of whole blood in a child under age 16 years.

*"Residential Building" means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures. (Section 2 of the Act)*

"Screening" means a blood lead testing by venous or capillary methodology.

"STELLAR" means the Systematic Tracking of Elevated Lead Levels and Remediation software developed and provided by the Centers for Disease Control and Prevention for local agencies to use in tracking lead poisoning cases.

"Third Party Exam" means that, in addition to training requirements and education and experience requirements, individuals seeking to become licensed as inspectors, Risk Assessors and Supervisors are required to pass a third party exam, administered by the Department or its designee, in addition to the training course examination.

"Training Hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, and/or hands-on experience.

"Work Area" means exterior areas where lead abatement activities are conducted.

"Work Site" means the room or rooms undergoing lead abatement activities in a single family dwelling or the room or rooms and common area of a residential building.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 845.12 Incorporated Materials

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- a) The following materials are incorporated by reference in this Part:
- 1) Occupational Safety and Health Administration (OSHA) Lead Standard 1910.1025 and 29 CFR 1926.62 (1993);
  - 2) Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, except Chapter Seven (June 1995); Chapter Seven of the Guidelines (revised 1997);
  - 3) Occupational Safety and Health Administration (OSHA) regulations at 29 CFR 1910.1001 and 29 CFR 1926.62 (1993);
  - 4) OSHA Interim Final Rule for Lead in Construction - 29 CFR 1926.62.
- b) All incorporations by reference of federal regulations or standards and the standards of nationally recognized organizations refer to the regulation or standard on the date specified and do not include any additions or deletions subsequent to the date specified.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 845.20 Reporting

- a) The Department requires the following persons and facilities to report to the Department all blood lead levels (PbB):
- 1) Every physician who diagnoses, or health care provider, nurse, hospital administrator, or public health officer who has verified information of any person who has a level of lead in the blood in excess of the permissible limits, as defined in Section 845.10, is required to report pursuant to this Section, starting with a confirmed lead level of 10 micrograms/per deciliter (mcg/dL). (Section 7 of the Act) If the analysis has been performed at the State laboratory, or the provider has ascertained that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department, then duplicate reporting of elevated levels is not required.
  - 2) Directors of clinical laboratories who have verified information of any positive blood lead test results, as defined in Section 845.10, are required to report the results to the Department within 48 hours after receipt of verification. Negative blood lead test results, as defined in Section 845.10, shall be reported to the Department no later than 30 days following the last day of the month in which the test results are obtained by the laboratory. The information included in the clinical laboratory report on positive and negative blood lead test results shall include the blood lead level; the child's name, address, date of birth, sex and race; date of test; test type; date of report; physician and/or clinic with address; and the reporting agency. Verification and test information on positive blood lead test results must be submitted as a distinct report

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- separate from the cumulated negative blood lead test information. All reports submitted must identify the report content as being either negative or positive blood lead test results. ~~Directors of clinical laboratories who have verified information of any level of lead in the blood are required to report the results to the Department within 48 hours. Verification information shall consist of the blood lead level and shall include the name, address, date of birth, sex, race, date of test, test type, date of report, physician and/or clinic with address, and the reporting agency.~~ (Section 7 of the Act)
- b) Reports required pursuant to this Section shall be made to the Department and all reported information, including the source of such information, received by the Department shall be considered confidential in nature. Any information submitted to a laboratory at the request of the Department and in accordance with this Part shall be treated as confidential by the laboratory which receives the information on behalf of and as required by the Department. The reported information under this Part shall be confidential and subject to good faith immunity in accordance with part 21 of Article VIII the Code of Civil Procedure [735 ILCS 5/Art. VIII, Part 21] and the Communicable Disease Report Act [745 ILCS 45]. It is the right, however, of any patient to obtain their own data.
- c) Reports required pursuant to this Section shall be submitted within 48 hours of receipt of verification thereof. Methods of submission can include written or electronic reporting as detailed in Section 845. Appendix A. Reports so submitted shall be considered received by the Department upon entry into the Data Processing system of the Department.
- d) Reports of blood lead levels shall be on a form or in a format provided by the Illinois Department of Public Health (See Appendix A).

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 845.23 Laboratory Fees for Blood Lead Screening

- a) The fee schedule for a sample of blood submitted to the Department for blood lead analysis and necessary follow-up shall be \$25.75 \$25. The fee shall be assessed to the provider who submits the sample. Statements of fee assessment shall be mailed to the submitter of the specimens on a monthly basis. Payment and/or appropriate information as required in subsection (b) and (c) of this Section shall be submitted to the Department upon receipt of the monthly statement.
- b) The Medicaid Recipient Identification Number may be provided for those Medicaid eligible recipients in lieu of payment.
- c) Medically indigent recipients shall be those recipients with family incomes under 185% of the federal poverty guidelines, not eligible for Medicaid, and screened by local health departments, Rural Health



## DEPARTMENT OF PUBLIC HEALTH

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Clinics, Federally Qualified Health Centers and facilities designated by the Department of Health and Human Services as look-alike Federally Qualified Health Centers. No fee shall be charged for these recipients.

- d) Fees collected from the Department's testing service shall be placed in a special fund in the State Treasury known as the Lead Poisoning Screening, Prevention and Abatement Fund.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 845.26 Inspection of Dwellings, Residential Buildings or Child Care Facilities

- a) Upon notification that a child who is an occupant or frequent inhabitant of a dwelling, child care facility, or residential building is reported to have a confirmed blood lead level that would necessitate an environmental inspection pursuant to subsections (a)(1) through (5) of this Section, a representative of the Department or a delegate agency is authorized to inspect a dwelling, residential building, or child care facility for the purpose of determining the source of lead poisoning. In the following cases, an environmental inspection and follow-up shall be conducted by the Department or delegate agency:

- 1) a child with a confirmed blood lead level at or above 25 micrograms per deciliter; ~~15-mcg/dL-whose-physician-requests-an inspection-to-determine-if-the-child-should-be-removed-from-the dwelling-or-residential-building-due-to-a-lead-hazard;~~
- 2) a child with a rising level, defined as a first confirmed level of 15 mcg/dL or higher and a second result of at least 5 mcg/dL or higher than the first level, with no time requirement between tests; ~~confirmed-lead-poisoning-at-or-above-15-mcg/dB;-An environmental-inspection-is-also-recommended-for-each-case-in which-a-child-has-confirmed-lead-poisoning-at-or-above-20-mcg/dB; or~~
  - 3) a child with three successive confirmed blood lead levels of 15-24 mcg/dL; ~~a-persistent-blood-lead-level-of-15-24-mcg/dB-over a-six-month-period;-Persistent-is-defined-for-the-purpose-of this-rule-as-the-performance-of-two-or-more-blood-lead-tests during-the-six-month-period-with-all-confirmed-results-in-the 15-24-mcg/dB-range-~~
  - 4) a child with a single confirmed blood lead level at or above 20 mcg/dL whose physician requests an inspection to determine if the child should be removed from the dwelling or residential building due to the lead hazard;
  - 5) Children under three years of age meeting any of the above criteria should receive higher priority for home inspection than older children.

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- b) An inspection of dwellings, residential buildings or child care facilities to determine the source of lead poisoning as required by this Section shall consist of, at a minimum, the following:

1) An interview with the owner or occupant about dwelling or facility use patterns and potential lead hazards including inquiries regarding:

- A) improperly glazed pottery;
- B) ethnic or folk medicines;
- C) hobbies and occupations;
- D) other dwellings;
- E) international travel;

2) A visual assessment of the condition of the building, appurtenant structures and painted surfaces; and

3) Environmental sampling of deteriorated paint and dust based upon subsections (b)(1) and (2) of this Section.

- c) Sampling shall be conducted by at least one of the following methods or a combination thereof:

- 1) X-Ray fluorescence device readings taken according to manufacturers' instructions;
- 2) Dust wipe samples taken for laboratory analysis;
- 3) Paint samples taken for laboratory analysis;
- 4) Soil samples taken for laboratory analysis (Samples may be taken at the discretion of the licensed lead inspector.);
- 5) Water samples taken for laboratory analysis (Samples may be taken at the discretion of the licensed lead inspector.).

- d) Following an inspection, the Department or its delegate agency shall:

- 1) Prepare an inspection report which shall:
  - A) State the address of the dwelling unit;
  - B) Describe the scope of the inspection, the inspection procedures used, and the method of ascertaining the existence of a lead bearing substance in the dwelling unit;
  - C) State whether any lead bearing substances were found in the dwelling unit;
  - D) Describe the nature, extent, and location of any lead bearing substance that is found;
  - E) State either that a lead hazard does exist or that a lead hazard does not exist. If a determination is made that a lead hazard does exist, the report shall describe the source, nature and location of the lead hazard. The existence of intact lead paint does not alone constitute a lead hazard for the purposes of this Section;
  - F) Give the name of the person who conducted the inspection and the person to contact for further information regarding the inspection and the requirements of this Part and the Act.
- 2) Mail or otherwise provide a copy of the inspection report to the property owner and to the occupants of the dwelling unit. If a lead bearing substance is found, the Department or its delegate agency shall attach a brochure containing information on lead

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abatement and mitigation to the copy of the inspection report provided to the property owner and the occupants of the dwelling unit. (Section 8 of the Act)

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 845.27 Requirements for Lead Inspector, Risk Assessor, Worker, Supervisor, and Contractor Licensing

a) To qualify for a license as a Lead Inspector, Risk Assessor, Worker, or Supervisor, an applicant shall meet the following requirements:

- 1) be at least 18 years of age;
- 2) complete the Department-approved initial training course for the discipline for which licensure is sought, and pass the examination administered at the conclusion of the course, and submit the training course completion certificate with the application for licensure. The initial training course must have been taken within three years before the date the Department received the application.<sup>7</sup> If the initial training course certificate is older than three years, the applicant shall submit the Department-approved initial training course completion certificate and each subsequent Department-approved refresher training course completion certificate indicating no lapse in accredited training;

3) after August 31, 1998, an applicant--for--Lead--Inspector--Risk Assessor--or--Supervisor--shall--pass--the--Department--approved--third party--certification--examination--within--six--months--after--the--date on--the--course--completion--certificate--to--be--eligible--for licensure--in--the--disciplines--of--Lead--Inspector--Risk--Assessor--or Supervisor--An applicant may take the third party examination, a maximum of three times--A \$50 fee shall be assessed--for--each separate discipline--examination--each--time--taken--Upon the applicant's successful completion of the third party examination, the Department shall issue the applicant--a--license--in--the appropriate discipline--as--specified--in--subsection--(4)--of--this Section;

34) submit a recent 1" x 1" photograph of the applicant for proper identification of the licensee. The license shall not be issued without an identification photograph;

45) submit the appropriate completed application form provided by the Department;

56) submit the required license application fee. Employees of the Illinois Department of Public Health, a delegate agency, or a local health department shall be exempt from licensure and third party examination fees when such employees' licenses are used only for purposes related to employment at the above-mentioned agencies; <sup>7</sup>

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6) In addition to the requirements specified in subsections (a)(1) through (5), an applicant for Lead Inspector, Risk Assessor or Supervisor licensure shall pass the Department-approved third party certification examination, as specified in subsection (i) of this Section, within six months after the date the Department accepts the application for licensure.

b) Reciprocity. Each applicant for licensure who is licensed or certified in any of the disciplines specified in this Section in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license if the Department determines that the requirements for licensure in such other state are as protective of health and the environment as the requirements for licensure in Illinois. To be considered for reciprocal licensure, each applicant for licensure pursuant to this Section shall submit the appropriate application and supporting documentation from the state in which currently licensed, accompanied by the non-refundable fee for each discipline as specified in subsection (e), (f), (g), (h) or (i) of this Section.

1) Reciprocal licenses shall expire in accordance with subsection (c) of this Section.

2) Renewal of reciprocal licensure shall be issued in accordance with subsection (d) of this Section, except that the annual renewal application shall be accompanied by a course completion certificate from a Department-approved one day (8 hour) refresher course. The course must have been completed within one year before the date the Department approved the reciprocal licensure application.

c) Expiration Date. Lead Inspector and Risk Assessor licenses expire January 31 each year, except that a first-time license issued after October 31 and before February 1 shall expire the following January 31. Lead Worker and Lead Supervisor licenses expire March 31 of each year, except that a first-time license issued after December 31 and before April 1 shall expire the following March 31. Contractor licenses expire May 31 of each year.

d) Renewal of License. Any license issued pursuant to this Part may be renewed if the licensee submits the completed application, nonrefundable fee, 1" x 1" photo and a certificate of completion from a Department-approved one day (8 hour) refresher course. The course must have been taken within three years before the date the Department received the renewal application. If a renewal application is received after January 1 for a Lead Inspector or Risk Assessor license or after March 1 for a Lead Worker or a Supervisor license, the applicant shall pay a nonrefundable late fee of \$15 in addition to the renewal fee. An applicant whose license has been expired for a period less than three years may apply to the Department for reinstatement of his license. The Department shall issue such reinstated license provided the applicant pays to the Department all lapsed license fees and a reinstatement fee of \$15. A license which has been expired for



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more than three years may be restored only by submitting a new application with a current certificate of completion from a Department-approved initial training course that has been completed within the last three years.

- e) Risk Assessor License Requirements. To qualify for licensure as a Risk Assessor, a person shall:

- 1) Submit a \$100 non-refundable application fee and a ~~After August-31-1998-an-additional~~ \$50 non-refundable fee ~~will-be required for the third party examination specified in subsection (i) of this Section, and~~
- 2) Prior-to-April-17-1998-to-qualify-for-a-Risk-Assessor-license-a person shall:

- A) comply-with-subsections-(a)(1)-through-(6)-and-(e)(1)-of this-Section-and
- B) submit-an-initial-head-inspector-certificate-and-initial Risk-Assessor-certificate-or-submit-an-initial-Risk-Assessor certificate-and-be-a-currently-illinois-licensed-head inspector-

- 3) After-March-31-1998-to-qualify-for-licensure-as-a-Risk Assessor-a-person-shall:

- 2A) comply with subsections (a)(1) through (6) and (e)(1) of this Section, and

- 3B) submit an initial Lead Inspector certificate and an initial Risk Assessor certificate or submit an initial Risk Assessor certificate, be a currently licensed Lead Inspector, and possess, at a minimum, one of the following combinations of education and experience:

- A) A bachelor's degree in science, engineering, or environmental health; or
- B) A bachelor's degree in any discipline and one year of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
- C) An associate's degree in any discipline and two years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction); or
- D) Be licensed as an industrial hygienist, professional engineer, architect or environmental health practitioner; or
- E) A high school diploma (or equivalent), and at least three years of experience in a related field (e.g., lead, asbestos, environmental remediation work, or construction).

- f) Lead Inspector License Requirements. To qualify for licensure as a Lead Inspector, a person shall complete and submit the application required by this Section and:

- 1) submit a \$100 non-refundable application fee and a ~~After August-31-1998-an-additional~~ \$50 non-refundable fee ~~will-be required for the third party examination specified in subsection (i) of this Section.~~

- 2) comply with subsections (a)(1) through (6) of this Section.

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- 2) submit-a-certificate-from-an-initial-three-day Department-approved-lead-inspector-training-course, which must have-been-taken-within-three-years-before-the-date-the-Department received-the-application-

- g) Lead Worker License Requirements. To qualify for a license as a Lead Worker, a person shall complete and submit the application as required by this Section and:

- 1) submit a \$25 non-refundable application fee, and
- 2) comply with subsections (a)(1) through (5) of this Section.

- 2) submit-a-certificate-from-a-Department-approved-initial-head Worker-course-that-must-have-been-taken-within-three-years-before the-date-the-Department-received-the-application-

- h) Supervisor License Requirements. To qualify for licensure as a Supervisor, a person shall complete and submit the application as required by this Section and:

- 1) submit a \$50 non-refundable application fee and a ~~After-August 31-1998-submit-an-additional~~ \$50 non-refundable fee for the third party examination specified in subsection (i) of this Section.

- 2) comply with subsections (a)(1) through (6) of this Section.

- 2) submit-a-certificate-from-an-initial-Department-approved Supervisor-course-that-must-have-been-completed-within-three years-before-the-date-the-Department-received-the-application-

- 3) after-March-31-1998-an-applicant-for-a-Supervisor-license-must also meet experience requirements as follows:

- A) One year of experience as a certified lead-based paint abatement worker; or
- B) Two years of experience in a related field (e.g., lead, asbestos, or environmental remediation work) or in the building trades.

- i) Applicants After-August-31-1998-applicants for Lead Inspector, Risk Assessor and Supervisor licenses are required to take a third party examination.

- 1) To qualify to take the third party examination an applicant shall:

- A) Comply with the requirements of subsections (a)(1) through (6)-{2}-{4}-{5}-and-{6} of this Section for the appropriate discipline.

- B) Submit a completed third party examination application form provided by the Department,

- C) submit a \$50 non-refundable third party examination application fee for each separate discipline examination, each time the examination is taken.

- 2) The Department shall provide, by mail, the following to applicants who qualify to take the third party examination:

- A) date, time, and location for the applicant to take the third party examination; and
- B) a detailed information packet, instructions for registration

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at the examination site, and directions to the facility where the examination is being administered.

- 3) When an applicant receives a passing score on the third party examination, the Department shall issue the license to the applicant in the discipline for which the applicant qualifies.
- 4) If the applicant does not pass the third party examination, the Department will notify the applicant, who may reapply to the Department to take the third party examination again. An applicant may take the third party examination no more than three times within six months after the Department accepts the application for licensure. ~~receiving---a---course---completion certificate.~~ If an applicant does not pass the third party examination within six months after the Department accepts the application for licensure ~~receiving---a---course---completion certificate~~, the applicant must retake the initial training course from a Department-approved ~~an-approved~~ training course provider before reapplying for licensure and approval to take the third party examination.
- j) Lead Abatement Contractor License Requirements.
  - 1) To qualify for licensure as a Lead Abatement Contractor, a person shall:
    - A) submit a completed application on a form provided by the Department;
    - B) submit a \$500 non-refundable licensure fee or, for applications received on or after December 1, a \$250 non-refundable licensure fee for a six month license;
    - C) submit a certificate of financial responsibility documenting that the contractor carries liability insurance for work performed pursuant to the Lead Poisoning Prevention Act and this Part. The contractor shall notify the Department of any changes in the status of the certificate of financial responsibility, including expiration, renewal or alteration of the terms of the certificate. The certificate of financial responsibility shall be an original and shall expressly provide coverage for lead abatement. A photocopy or facsimile copy is not acceptable. The certificate shall be issued by an insurance company that is authorized to transact business in Illinois. A current certificate of insurance shall be on file with the Department at all times;
    - D) submit the name of the person with a valid Illinois Contractor/Supervisor's license. Such license must be held by either the Contractor or an employee of the Contractor;
    - E) submit a written statement signed by the Contractor specifying that only Lead Workers licensed by the Department will be employed for lead abatement;
    - F) submit a copy of the Contractor's written standard operating procedures and employee protection plan, which shall include specific references to medical monitoring and respirator

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training programs required in OSHA regulations at 29 CFR 1910.1001 and 29 CFR 1926.62 (1993);

- G) submit a description of all legal proceedings, lawsuits or claims which have been filed or levied against the Contractor or any of his/her past or present employees or companies in regard to construction-related activities. If there are no claims as specified in this subsection (j)(1)(G) against the Contractor then a signed statement to that effect shall be submitted to the Department.

- 2) Reciprocity. An applicant for a Contractor's license who is licensed or certified for lead contracting in another state may request reciprocal licensure. The Department shall evaluate the requirements for licensure in such other state and shall issue the license, if the Department determines that the requirements for licensure in such other state are equal to the requirements for licensure in Illinois. Each applicant for licensure pursuant to this subsection (j)(2) shall submit a one time non-refundable application fee of \$250 and an additional \$500 non-refundable license fee if qualified for licensure.
- 3) Renewal of License. All Contractor licenses shall be renewed annually. All licenses shall expire on May 31 of each year. If a renewal application is received after April 30, the applicant shall pay a non-refundable late fee of \$100, in addition to the \$500 non-refundable renewal fee. An applicant whose license has expired for a period of three years or less may apply to the Department for reinstatement of the license. The license shall be reinstated if the applicant submits to the Department all the lapsed license fees and a reinstatement fee of \$100. A license which has expired for more than three years is not eligible for renewal. In such instances, the formerly licensed individual desiring to be licensed shall follow the application procedures specified in subsection (j)(1)(A) through (G) of this Section.
- k) Denial of Application, and Suspension or Revocation of License.
  - 1) The Director of Public Health, after notice and opportunity for hearing, may deny the application for, or suspend or revoke the license of, a Lead Abatement Contractor, Supervisor, Worker, Lead Risk Assessor, or Inspector in any case in which the Director of Public Health finds substantial or continued failure to comply with the requirements of this Part, including fraud, misrepresentation, working without a license, or not adhering to work practice standards.
  - 2) Such notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the applicant or licensee with an opportunity to request a hearing. If a written hearing request is not received within 15 days after receipt of the notice by the applicant or licensee, the right to a hearing is waived.

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(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 845.28 Approval of Training Program Providers**

## a) Requirements for Approval of All Training Programs.

1) To be approved as a training provider, a person shall submit to the Department information to confirm that the program provides:

- A) Adequate facilities for classroom and field hands-on training;
- B) A final examination for initial and refresher courses with criteria for pass/fail (at least 70% correct to pass);
- C) An example of the certificate of course completion with name/address/phone number of the training course provider and student information (name, dates of course, and identification of pass/fail) which is submitted to the Department for each student after course completion;
- D) Student and instructor manuals and a course agenda;
- E) A class schedule, which shall be submitted to the Department prior to the start of each course.

2) The training program shall employ a training manager who:

- A) Has:
  - i) At least two years of experience, education, or training in teaching workers or adults; or
  - ii) A bachelor's degree or higher degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or
- B) Has two years of experience in managing a training program specializing in environmental hazards; and has demonstrated experience, education, or training in the construction industry including lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
- 3) The training manager shall designate, for each course, a qualified principal instructor who has:
  - A) Demonstrated experience, education, or training in teaching workers or adults;
  - B) Successfully completed at least 16 hours of any Department-approved lead-specific training; and
  - C) Demonstrated experience, education, or training in lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.
- 4) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material. The training manager may designate guest

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instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.

5) The training manager is responsible for maintaining training program records and making such records available to the Department as specified in this subsection (a)(5):

A) Training program records shall be made available to the Department for review as follows:

- i) The training program shall retain records at the address specified on the training program approval application (or as modified) for a minimum of 3 1/2 years.
  - ii) The training program shall notify the Department in writing within 30 days after changing the address specified on its training program approval application or transferring records from that address to a new address.
  - iii) The Department shall have the authority to enter, inspect and audit training facilities to determine compliance with the Act and this Part.
- B) Training records that shall be maintained by the training course provider include, but are not limited to, the following:
- i) All documents that demonstrate the qualifications of the training manager and principal instructors, as specified in subsection (a)(2) of this Section.
  - ii) Current curriculum/course materials and documents reflecting any changes made to these materials.
  - iii) The course examination blueprint.
  - iv) Information regarding the conduct of the hands-on skill assessment, including, but not limited to, the name of the instructor who conducts the assessment, how the skills are graded, what facilities are used for the hands-on assessment, the pass/fail rate, and the quality control plan.

v) Results of the students' hands-on skills assessments and course examinations, and a record of each student's course completion certificate.

vi) Any other materials specified in this Section that have been submitted to the Department as part of the program's application approval.

b) Requirements for Approval of Lead Inspector Training Programs. To obtain approval for a Lead Inspector training program, a person shall submit information to confirm that the program provides:

- 1) at least a three day course (equivalent to 24 hours of instruction), two days of which are dedicated to the topics specified in this subsection (b)(1), and 8 hours of hands-on instruction. Requirements ending in an asterisk (\*) indicate



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areas that require hands-on activities:

- A) Role and responsibilities of a Lead Inspector;
  - B) Background information on lead and the adverse health effects of lead exposure;
  - C) Background information on federal, State, and local regulations and guidance pertaining to lead-based paint and lead-based paint activities;
  - D) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing;\*
    - E) Paint, dust and soil sampling methodologies;\*
    - F) Clearance standards and testing, including random sampling;\*
    - G) Preparation of the final inspection report;\* and
    - H) Record keeping.
  - 2) The one day (8 hour) Lead Inspector refresher course content shall be the same as the course content specified in subsections (b)(1)(A) through (G) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.
- c) Requirements for Approval of Risk Assessor Training Programs. To obtain approval for a Risk Assessor training program, a person shall submit information to confirm that the program provides:
- 1) At least a two day course (equivalent to 16 hours of instruction), with a minimum of 4 hours of hands-on instruction provided. Requirements ending in an asterisk (\*) indicate areas that require hands-on activities:
    - A) Assurance to the Department that a Lead Inspector training course certificate of completion is required of each applicant as a prerequisite for Risk Assessor training course attendance;
    - B) Role and responsibilities of the Risk Assessor;
    - C) Collection of background information to perform a dwelling risk assessment;
    - D) Sources of environmental lead contamination (paint, surface dust and soil, water, air, packaging, and food);
    - E) Visual inspection procedures for the purpose of identifying potential sources of lead-based paint hazards\*;
    - F) Lead hazard screening protocol;
    - G) Sampling for sources of lead exposure\*;
    - H) Interpretation of lead-based paint and other lead sampling results, including all applicable State and federal guidance pertaining to lead-based paint hazards (i.e., federal statutes and regulations)\*;
    - I) Development of hazard control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and
    - J) Preparation of a final risk assessment report.
  - 2) The one day (8 hour) Lead Risk Assessor refresher course content shall be the same as the course content specified in subsections

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(c)(1)(B) through (J) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.

d) Requirements for Approval of Lead Worker Training Programs. In order to obtain approval for a Lead Worker training program, a person shall submit information to confirm that the program provides:

- 1) At least a three-day course (equivalent to 24 hours) of instruction with a minimum of one day (8 hours) of hands-on training. Requirements ending in an asterisk (\*) indicate hands-on activities:
    - A) Role and responsibilities of a lead abatement worker;
    - B) Background information on lead and the adverse health effects of lead exposure;
    - C) Background information on federal, State and local regulations;
    - D) Lead-based paint hazard recognition and control\*;
    - E) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices\*;
    - F) Interior dust abatement methods/cleanup or lead-based paint hazard reduction\*;
    - G) Soil and exterior dust abatement methods or lead-based paint hazard reduction\*.
  - 2) The one day (8 hour) Lead Worker refresher course content shall be the same as the course content specified in subsections (d)(1)(A) through (K) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.
- e) Requirements for Approval of Supervisor Training Programs. To obtain approval for a Supervisor training program, a person shall submit information to confirm that the program provides:
- 1) Prior to April 1, 1998, in addition to the three-day course in subsections (d)(1)(A) through (K) of this Section, a lead Supervisor shall complete a lead Supervisor supplemental course that shall consist of After March 31, 1998, the Supervisor course shall be at least a minimum

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of 32 training hours, with a minimum of 8 hours devoted to hands-on activities, and shall pass the examination administered at the end of the course. The supplemental training course for lead supervisors shall be dedicated to the following topics. (Requirements ending in an asterisk (\*) indicate areas that require hands-on activities as an integral part of the course):

- A) Role and responsibilities of a supervisor;
- B) Background information on lead and its adverse health effects;
- C) Background information on federal, State, and local regulations and guidance that pertain to lead-based abatement;
- D) Liability and insurance issues relating to lead-based abatement;
- E) Risk assessment and inspection report interpretation\*;
- F) Development and implementation of an occupant protection plan and abatement report;
- G) Lead-Based paint hazard recognition and control\*;
- H) Lead-Based paint abatement and lead-based paint hazard reduction methods, including restricted practices\*;
- I) Interior dust abatement/cleanup or lead-based paint hazard control and reduction methods\*;
- J) Soil and exterior dust abatement or lead-based paint hazard, control and reduction methods, including large scale abatement projects\*;
- K) Clearance standards and testing;
- L) Cleanup and waste disposal;
- M) Recordkeeping; and
- N) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects.

23) The one day (8 hour) lead Supervisor refresher course content shall be the same as the course content specified in subsections (e)(12)(A) through (M) of this Section, and any current safety practices, new laws and regulations, and current technologies relating to lead-based paint activities.

f) Application fees for Approval and Renewal of Lead Training Courses.

- 1) All lead training course approvals expire on October 15.
- 2) All initial lead training course approval application fees shall be \$200 per discipline and all lead refresher training course approval application fees shall be \$100 per discipline.
- 3) Applications for renewal of all lead training course approvals must be received by September 15 of each year. If the renewal application is received after September 15, a \$50 late fee shall be charged per course.
- 4) Application fees for all lead training courses, effective October 15, 1998, will be as follows, except that fees will be waived for all State, local, and not-for-profit training providers.

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- A) Initial training course for all disciplines, \$500 per course;
- B) Refresher training course for all disciplines, \$250 per course; and
- C) Late fees for all disciplines, \$50 per course.

g) Suspension, Revocation, or Denial of Training Courses. The Department may suspend, revoke or deny approval of any lead training course for any of the following reasons:

- 1) Misrepresentation of the contents of a training course to the Department and/or the student population;
- 2) Failure to submit required information or notifications;
- 3) Failure to maintain required records;
- 4) Falsified records, instructor qualifications, or other related information or documentation;
- 5) Failure to comply with the training standards and requirements in this Section; or
- 6) Failure to comply with federal, State, or local lead-based paint statutes or regulations.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## Section 845.30 Mitigation or Abatement of Lead Hazards

a) The following procedures shall be followed upon determination by the Department or delegate agency that a lead hazard is present in or upon any dwelling or residential building or child care facility. The Department or delegate agency will provide the occupant of the dwelling with a copy of any mitigation notice, amended notice, mitigation plan, amended plan, or follow-up inspection report issued pursuant to this subsection (a).

- 1) If the inspection report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner that the owner is required to mitigate the lead hazard. The mitigation notice shall indicate the time period in which the owner must complete the mitigation as required by subsection (a)(3) of this Section, and shall include information describing mitigation activities which meet the requirements of this Part and the Act. (Section 9(1) of the Act)

2) If the inspection report prepared in accordance with Section 845.26, identifies a lead hazard, the owner shall mitigate the lead hazard in accordance with the requirements of this Section and within the time limits set forth in subsection (a)(3) of this Section. If the source of the lead hazard identified in the inspection report is lead paint or any other leaded surface coating, the lead hazard shall be deemed to have been mitigated if:

- A) The surface identified as the source of the hazard is no



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longer in a condition that produces a hazardous level of leaded chips, flakes, dust or any other form of leaded substance that can be ingested or inhaled by humans; or

B) If the surface identified as the source of the hazard is accessible to children and could reasonably be chewed on by children, the surface coating is either removed or covered, or the access to the leaded surface by children is otherwise prevented as prescribed by the Department. (Section 9(2) of the Act)

3) When a mitigation notice is issued for a dwelling unit inspected as a result of an elevated blood lead level in a pregnant woman or a child, or if the dwelling unit is occupied by a child under 6 years of age or a pregnant woman, the owner shall mitigate the hazard within 30 days after receiving the notice; otherwise, the owner shall complete the mitigation within 90 days. (Section 9(5) of the Act)

4) An owner may apply to the Department or its delegate agency for an extension of the deadline for mitigation. If the Department or its delegate agency determines that the owner is making substantial progress toward mitigation during the prescribed time period, or that the failure to meet the deadline is the result of a shortage of licensed abatement contractors or workers, or that the failure to meet the deadline is because the owner is awaiting the review and approval of a mitigation plan, the Department or delegate agency may grant an extension of the deadline. (Section 9(6) of the Act)

5) The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any dwelling for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard, for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of this Act, which may include abatement if abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of this Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished. (Section 9(7) of the Act)

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b) In order to ensure that lead mitigation or abatement activities do not result in lead contamination of areas outside of the abatement worksite or work area, the removal of lead-bearing substances from the dwelling, residential building, or child care facilities shall be conducted in a manner that will not endanger the health or well-being of occupants and will result in the safe removal from the worksite or work area and the safe disposal of flakes, chips, debris, dust, and other lead-bearing substances. Notwithstanding any provisions to the contrary, performance of mitigation and abatement activities which do not conform to procedures and criteria provided in this Section, whether or not those procedures and criteria are expressly made mandatory in this Section, shall create a rebuttable presumption of creation of a health hazard by the person performing such activities.

c) Mitigation. Mitigation is an interim method of eliminating the lead hazard risk to a child and may consist of any number of the Department-prescribed lead hazard repair activities specified in subsections (c)(1) through (4) of this Section. Such activities may not be considered final actions if it is determined, through a follow-up inspection conducted pursuant to subsection (a)(5) of this Section, that the lead hazard repair measures taken have not sufficiently mitigated the lead hazard. Lead hazard repairs shall be completed within the time specified after receipt of written notification. When conducting any lead hazard repair that does not create lead dust or fumes as specified in subsections (c)(1) through (4), the requirements of Section 845.28 pertaining to the licensure of lead workers, lead contractor/supervisors, or lead abatement contractors and the requirements of subsections (d)(1)(B) through (E) and (d)(2) of this Section are optional.

1) All loose paint shall be moistened and carefully scraped from defective surfaces. These areas shall then be covered with an intact surface for the purpose of preventing the paint chips from falling on the floor and preventing a child's access to the lead hazard. All debris shall be collected and sealed in plastic bags for proper disposal in accordance with subsection (q) of this Section.

2) Areas which may be chewed upon by a child shall be covered with heavy paper, cardboard, cloth, canvas, or other material that will prevent access to the lead hazard by a child.

3) All plaster and paint chips shall be collected, and any surfaces that have collected paint dust shall be cleaned by damp mopping with a phosphate-containing detergent or trisodium phosphate (TSP), or a phosphate-free lead-dissolving detergent.

4) A mitigation plan shall be submitted by the owner or its agent to the Department or delegate agency specifying the method or methods by which surfaces which will be managed-in-place are to be maintained in an intact condition. The plan shall include an inspection schedule, which shall include inspection by the owner



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or its agent at least annually, and a maintenance schedule. Any surfaces that are not intact, as determined through an inspection, shall be repaired using the mitigation techniques specified in subsections (c)(1), (2), and (3) of this Section.

- d) Abatement. For cases in which a follow-up inspection conducted pursuant to subsection (a)(5) of this Section determines that lead hazard repair measures taken have not sufficiently mitigated the lead hazard, abatement may be deemed necessary. If the Department or delegate agency determines that abatement is the sole means by which a lead hazard can be mitigated, then abatement activities shall be conducted in accordance with this Section. *Mitigation activities which involve the destruction or disturbance of any leaded surface shall be conducted by a licensed lead abatement contractor using licensed lead abatement workers* (Section 9 of the Act). If the mitigation activities described in subsection (c) of this Section will not result in protection of a child, or are not practical, any child or children shall be removed to a lead-safe dwelling until abatement is completed.

- 1) Personnel Protection. An owner, its agent, or any person who is performing corrective action that is prescribed by the Department or a delegate agency for lead abatement in a dwelling, shall take the following precautions to protect his or her health and the health of occupants of the dwelling during any lead abatement that may produce lead dust or fumes. Monitoring of airborne dust shall be performed when work is in progress and respiratory protection shall be provided in accordance with this Section. The owner or its agent shall assure, through the monitoring of airborne dust in the work site and in areas that are outside but adjacent to the work site, that no person conducting lead abatement work directed by the Department or owner is exposed to lead at concentrations greater than the permissible exposure limit average (50 mcg/m(3)) over an eight-hour period.

- A) No children, pregnant women, unprotected workers, nonworkers, or pets shall be permitted to enter the work site.

- B) Respiratory protection shall be worn by all individuals in the work site or work area who may be exposed to lead dust or fumes at all times during lead abatement activities. Respiratory protection in accordance with OSHA Interim Final Rule for Lead in Construction - 29 CFR 1926.62, shall be worn until all areas have been thoroughly cleaned as described in subsection (o) of this Section. The following are the minimum respiratory protection requirements:

- i) Air lead levels of 500ug/m(3) or less: Half-mask air purifying (protection 10X) respirator with high efficiency filters; or half-mask supplied air respirator operated in demand (negative-pressure) mode.
- ii) Air lead levels between 500ug/m(3) and 1,250ug/m(3):

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Loose fitting hood or helmet (protection 25X) powered air purifying respirator with high efficiency filters; or hood or helmet supplied air respirator operated in continuous-flow mode (e.g., type CE abrasive blasting respirators operated in a continuous flow mode).

- iii) Air lead levels between 1250ug/m(3) and 2500ug/m(3): Full facepiece air purifying (protection 50X) respirator with high efficiency filters; tight fitting powered air purifying respirator with high efficiency filters; full facepiece supplied air respirator operated in demand mode; half-mask or full facepiece supplied air respirator operated in a continuous-flow mode; or full facepiece self-contained breathing apparatus (SCBA) operated in demand mode.
  - iv) Air lead levels between 2500ug/m(3) and 50,000ug/m(3): Half-mask supplied air (protection 1,000X) respirator operated in pressure-demand or other positive pressure mode.
  - v) Air lead levels between 50,000ug/m(3) and 100,000ug/m(3): Full facepiece supplied air (protection 2,000X) respirator operated in pressure demand or other positive pressure mode (e.g., type CE abrasive blasting respirators operated in a positive pressure mode).
  - vi) Greater than 100,000ug/m(3): Full facepiece SCBA operated unknown concentration, in pressure-demand or other or fire fighting positive pressure mode (protection over 2000X).
- C) Only approved Mine Safety and Health Administration (MSHA) or National Institute of Occupational Safety and Health (NIOSH) respirators shall be used. Respirators shall be properly fitted for all persons working at the site. If any person has a medical history of respiratory problems, a physician should be contacted for testing to determine if the person may wear such respirators.
- D) The manufacturers' instructions shall be followed for maintenance, proper fit, use of appropriate cartridges, cleaning, repair, replacement of defective parts, appropriate storage, and the frequency of cartridge replacement for the specific respirator in use. (NOTE: Respirators are not effective if facial hair (a beard, etc.) is present because a good seal cannot form between the respirator and skin.)
- E) Respirators shall not be removed while in the work site or work area.
- F) Additional respiratory protection by supplemental filters, such as organic vapor cartridges, may be needed when handling some coating or stripping products. Consult the

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Material Safety Data Sheets (MSDS) or the manufacturer and obtain the proper filters as necessary.

- 2) Individuals at the work site shall wear full body suits with hoods and shoe covers. A TYVEK or similar type of disposable suit may be worn. Disposable suits shall be used once, then properly discarded. Protective clothing, as described above, and other personal protective equipment (PPE) shall be put on prior to entering the work site or work area. Protective clothing shall be worn in the work site or work area until it has been thoroughly cleaned as described in clean-up activities in subsection (o) below. Protective clothing shall be changed before leaving the work site or work area and nondisposable suits shall be laundered separately. An area other than the work site or work area shall be provided for persons to put on suits and other PPE and to store their street clothes.
- 3) Goggles with side shields shall be worn when working with a material that may splash or fragment, or if protective eye wear is specified on the Material Safety Data Sheet (MSDS) for that product.
- e) Notice to Occupants. The owner or its agent shall give notice to the occupants of a dwelling to be abated for lead, at least 7 days but not more than 30 days, before a contractor or the owner may commence a lead abatement project. Before beginning a lead abatement project, the owner of the building in which lead abatement is to take place shall remove all furniture and packed personal items from the work site and store them in a secure place. The owner of the building in which the lead abatement project is to take place shall notify all residents of:
  - 1) the site or area which is to be abated;
  - 2) the date on which abatement is to commence; and
  - 3) the occupants' obligations under this Section to place all personal items in a box or other closed, easily handled container. Every occupant of a dwelling to be abated, who has received a notice of lead abatement, shall be responsible for placing all personal items in boxes or other closed, easily handled containers.
- f) Residential Buildings. At all times when a lead abatement project is being conducted in a common area of a residential building:
  - 1) occupants and pets shall use alternative entrances and exits which do not require passage through the work site or work area, if such entrances and exits exist;
  - 2) the owner or its agent shall use all reasonable efforts to create an uncontaminated passage for entrance and egress of all building occupants; and
  - 3) if the entrance to and egress from a building can only be through the work site or work area, abatement in the work site or work area shall be conducted between the hours of 9 a.m. to 3 p.m. only, and the work site or work area shall be cleaned with a HEPA vacuum at the end of each working day until all surfaces are free

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of visible dust and debris.

- g) Abatement of lead-bearing substances shall not employ the following methods:
  - 1) open flame burning;
  - 2) dry-sanding;
  - 3) open abrasive blasting;
  - 4) uncontained hydro-blasting;
  - 5) methylene chloride for interior use (except that methylene chloride may be used in work sites for localized touch-up); or
  - 6) dry-scraping.
- h) Abatement of lead-bearing substances shall employ only the following methods:
  - 1) Replacement. Any component part of a building may be abated by replacement with a part free of lead-bearing substances.
  - 2) Removal. Unless replaced, encapsulated, or reversed, woodwork may be abated by using the following techniques:
    - A) offsite chemical stripping;
    - B) heat gun (The temperature of the heat gun shall not exceed 1,100° F.);
    - C) nonflammable chemical strippers which do not contain methylene chloride, except that chemical strippers containing methylene chloride may be used for localized touch-up;
    - D) sander equipped with HEPA vacuum;
    - E) vacuum-blasting in exterior work areas only;
    - F) contained hydro-blasting in exterior work areas only; or
    - G) mechanical paint removal systems equipped with a HEPA vacuum.
  - 3) Unless replaced or encapsulated, walls or ceilings may be abated by using the following techniques:
    - A) wet-scraping of loose material, if scraping is followed by encapsulation;
    - B) vacuum-blasting in exterior work areas only; or
    - C) contained hydro-blasting in exterior work areas only.
  - 4) Enclosure. A wall or ceiling surface may be abated by covering the lead-bearing surface with any of the following materials, provided use of any material complies with local building ordinances or codes. (All seams and openings shall be caulked and sealed where applicable.):
    - A) gypsum board;
    - B) fiberglass mats;
    - C) canvas-backed vinyl wall coverings;
    - D) high pressure, laminated plastic sheet, such as Formica (R);
    - E) tile;
    - F) paneling;
    - G) other durable material that does not readily tear or peel; or
    - H) solvent-free coatings (not household paint) applied in

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- accordance with the manufacturer's directions.
- 5) A floor surface may be abated by enclosure using the following materials:
    - A) tile;
    - B) vinyl flooring;
    - C) wood; or
    - D) stone.
  - 6) A woodwork surface may be abated by enclosure or encapsulation only with the following materials:
    - A) plastic;
    - B) metal;
    - C) wood; or
    - D) solvent-free coatings (not household paint) applied in accordance with the manufacturer's directions.
  - 7) Reversal. A woodwork surface may be abated by reversing component parts, provided that no lead-bearing surface remains exposed at the completion of the process and all seams are caulked and sealed.
  - 8) Windows, when abated, shall be completely treated, including inside, outside, and sides of sashes and mullions. Window frames shall be abated to the outside edge of the frame, including slides, sash guides, and window wells and sills.
  - i) Alternative Procedures
    - 1) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.
    - 2) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (h)(1) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.
  - j) Caution Signs. At each work site or work area in dwellings occupied by two or more families, the owner or its agent performing an abatement shall display a caution sign in the following manner wherever the abatement process is reasonably expected to break or disturb any lead-bearing substances.
    - 1) At least 3 days before removing, enclosing, or encapsulating lead paint, the owner shall post caution signs immediately outside all entrances and exits to the work site. In emergency situations

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- posting shall be done as soon as possible.
- 2) The owner shall keep the caution signs posted until the lead abatement is completed.
  - 3) The owner shall ensure that caution signs meet the following specifications:
    - A) the sign shall be at least 20" by 14", and state the date and place of the lead abatement project;
    - B) except as provided in subsection (j)(3)(C) below, the sign shall include the phrase "Caution, Lead Hazard, Keep Out" or "Warning, Lead Work Area, Keep Out" in bold lettering, at least two inches high; and
    - C) in dwellings occupied by two or more households where common areas are to be abated, the sign shall include the phrase "Caution, Lead Hazard, Do Not Remain in Work Area Unless Authorized" in bold lettering at least two inches high.
  - k) Residential Buildings
    - 1) In residential buildings where common areas are to be abated, the owner or its agent shall post a notice on the door of each apartment in the building at least three days before a lead abatement project commences.
    - 2) The notice required in subsection (k)(1) above shall contain:
      - A) the date of commencement of abatement and identification of the area to be abated; and
      - B) a caution statement alerting residents not to enter the work site or work area.
  - l) Personal Hygiene Practices
    - 1) Eating, drinking, smoking, and applying of cosmetics are not allowed in the work site or work area. Any person leaving the work site or work area shall rinse his or her mouth with potable water and wash hands and face thoroughly before eating, drinking or smoking.
    - 2) All individuals shall wash or shower before leaving the work site or work area for the day.
    - 3) A lavatory facility or potable water supply or a portable decontamination unit shall be provided and located at the work site or work area for the washing of hands and face and for clean up activities.
  - m) Negative air pressure shall be maintained in work sites undergoing lead abatement in multiple dwelling units occupied by two or more households having a common area and in residential buildings having a common area, in which any unit of the building is undergoing lead abatement. The maintenance of negative air pressure will ensure that contaminated air does not filter from the work site to uncontaminated areas. (See Appendix D of this Part)
    - 1) The negative pressure system shall use HEPA filters and shall operate continuously, 24 hours a day, at the start of the lead abatement work through clean-up as described in Section 845.30(o).



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- 2) The owner or its agent shall assure, through the monitoring of airborne dust, that no person conducting lead abatement work directed by the Department is exposed to lead at concentrations greater than 50 mcg/m(3) average over an eight-hour period.

## n) Containment

- 1) Interior Containment. Before beginning to abate a lead-containing substance which will cause lead dust or fumes in excess of the requirements in subsection (c) above in the work site, the owner or its agent performing an abatement shall:
  - A) ensure that all movable objects have been removed from the work site;
  - B) turn off all forced air ventilation in the work site and seal exhaust and intake points in the work site;
  - C) if the work site is a room or group of rooms within a building, seal the work site from all other portions of the building with plastic sheeting at least 6 mils thick, secured by duct tape or spray adhesives;
  - D) seal the opening seams of all kitchen cabinets and refrigerators individually with tape;
  - E) cover all objects that cannot be moved, such as radiators, refrigerators, stoves, kitchen cabinets, built-in furniture, and bookcases, with plastic sheeting at least 6 mils thick taped securely in place;
  - F) cover floors in the work site with plastic sheeting at least 6 mils thick sealed with tape; and
  - G) remove all carpeting from the work site prior to abatement. Carpeting shall be professionally cleaned or replaced. Carpeting shall be misted with water prior to removal to prevent lead dust exposure.

- 2) Exterior Containment. Before beginning to abate a lead-containing substance in an exterior work site, the owner or its agent performing the abatement shall use the following procedures:

- A) When liquid waste is produced by any abatement technique used, plastic sheeting at least 6 mils thick shall be placed on the ground, as close as possible to the building foundation, or on the floor when applicable. Sheetting placed on the ground or floor shall be raised at its edge and extended a sufficient distance to contain the liquid waste.

- B) When nonliquid waste is produced by any abatement technique used, plastic sheeting at least 6 mils thick shall be placed on the ground, as close as possible to the building foundation, or on the floor when applicable. Sheetting placed on the ground or floor shall extend out from the foundation 3 feet per story being abated, with a minimum of 5 feet and a maximum of 20 feet.

- C) Sheetting placed on an exterior floor shall cover the entire

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floor.

- D) Sheetting shall be secured at the foundations and along all edges and seams.
  - E) If the wind speed causes visible dust during an exterior abatement project producing dry waste, abatement shall not be continued or performed unless vertical shrouds are erected.
  - F) When vacuum blasting or contained hydro-blasting, interior windows shall be sealed with plastic sheeting 6 mils thick and secured with water proof tape.
- 3) For all sealing and covering of interior and exterior abatement work the owner or its agent shall use the following:
    - A) plastic sheeting, at least 6 mils thick or equivalent;
    - B) duct tape or equivalent waterproof tape;
    - C) spray adhesives; or
    - D) other additional appropriate work practices to contain particulate lead or lead-containing liquids.

## 4) Alternative Procedures

- A) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedures that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.

- B) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (n)(4)(A) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

- o) Cleanup of Interior Work Site. Refer to Appendix D of this Part if a negative pressure system is used. After completion of the removal, replacement, enclosure, encapsulation, or reversal involved in an abatement project, the owner or its agent shall:

- 1) deposit all lead waste, including sealing tape and plastic sheeting, in double plastic bags at least 4 mils thick or single bags 6 mils thick or equivalent, and seal the bags;
- 2) before washing, vacuum-clean all surfaces in the work site including woodwork, walls, windows, window wells, and floors with a HEPA vacuum;
- 3) after vacuum-cleaning, wet wash all surfaces in the work site including woodwork, walls, windows, window wells, ceilings and

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floors with a solution containing trisodium phosphate mixed according to the manufacturer's directions, or a phosphate-free lead dissolving detergent; and

- 4) if visible residue remains after washing and allowing all surfaces to dry, vacuum all surfaces with HEPA vacuum, as described in subsection (c)(2) above; and
- 5) deposit all lead waste from clean-up, including mop heads, sponges, filters, and disposable clothing, in double plastic bags at least 4 mils thick or single bags 6 mils thick, and seal the bags.

p) Cleanup of Exterior Work Area. After completion of the replacement, removal, encapsulation, enclosure, or reversal involved in an exterior abatement or mitigation project, the owner or its agent shall:

- 1) recover all visible debris from exterior areas;
- 2) HEPA vacuum all porches that have been abated; and
- 3) wet wash all surfaces in the work site, including woodwork, windows, window wells, and floors, with a solution containing trisodium phosphate mixed according to the manufacturer's directions, or a phosphate-free lead dissolving detergent.

q) Waste Disposal

- 1) The owner or its agent of any dwelling who has conducted lead abatement that was prescribed by the Department or delegate agency shall contact the Illinois Environmental Protection Agency and local authorities to determine lead-based paint debris disposal requirements.

2) In addition, the owner or its agent shall:

- A) remove lead waste from the site of an abatement project not later than 48 hours after completing the final cleanup;
- B) place lead-based paint chips, debris, and lead dust in double 4-mil or single 6-mil polyethylene bags; or equivalent, that are air-tight and puncture-resistant. Pieces of wood or other large items that do not fit into plastic bags shall be wrapped with double 4-mil or single 6-mil plastic sheeting and sealed;
- C) place all disposable cleaning materials, such as sponges, mop heads, filters, disposable clothing, and brooms in double 4-mil or single 6-mil plastic bags, or equivalent, and seal;
- D) remove plastic sheeting and tape from covered surfaces. Prior to removing the plastic sheeting, the sheeting shall be lightly misted in order to keep dust down and folded inward to form tight small bundles to bag for disposal. All plastic sheeting shall be placed in double 4-mil or single 6-mil thick plastic bags, or equivalent, and shall be sealed;
- E) bag and seal vacuum cleaner bags and filters in double 4-mil or single 6-mil thick plastic bags or equivalent;
- F) place all contaminated clothing or clothing covers used

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during abatement and cleanup in plastic bags for disposal prior to leaving equipment room, work site or work area;

- G) place solvent residues and residues from strippers in drums made from materials that cannot be dissolved or corroded by chemicals contained in those solvents and strippers. Solvents shall be tested to determine if they are hazardous. Solvents and caustic and acid waste shall not be stored in the same containers;

- H) contain and properly dispose of all liquid waste, including lead dust contaminated wash water;

- I) HEPA vacuum the exterior of all waste containers prior to removing the waste containers from the work site or area and wet wipe the containers from the work site or area and wet wipe the containers to ensure that there is no residual contamination. Containers that have been cleaned shall be moved out of the work site or area into a designated storage area;

- J) carefully place the containers into the truck or dumpster used for disposal; and

- K) ensure that all waste is transported in covered vehicles to a landfill approved by the Illinois Environmental Protection Agency.

r) Repainting, Coating and Sealing. After cleaning, the owner or its agent shall repaint all abated surfaces with a paint that is not a lead-bearing substance or coat all surfaces from which lead paint has been removed with a solvent-free coating, except for those enclosed surfaces that have smooth, easily cleanable surfaces.

- 1) After painting or coating, the owner or its agent shall repeat the cleaning process in all interior work areas, except those painted with latex paint or coated with liquid encapsulant.

- 2) After completion of the cleaning, the owner or its agent shall seal all floors that have been abated in the work site with:

- A) polyurethane;
- B) gloss deck enamel;
- C) a tight fitting vinyl floor covering; or
- D) an equivalent impermeable material, if a smooth cleanable surface is not already present.

3) Alternative Procedures

- A) The Department or delegate agency may allow an alternative procedure for abatement, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department that the proposed alternative procedure provides a level of abatement and safety equivalent to the requirements of this Section. The delegate agency shall send a copy of the request and the delegate agency's response to the Department for its records.

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- B) In all cases in which the Department or delegate agency allows the use of an alternative procedure under subsection (r)(3)(A) above, the owner and occupant shall, for a one-year period after completion of the lead abatement project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.

## s) Procedures for Determining Compliance

- 1) The Department or delegate agency may inspect a work site or work area at any time during a lead abatement project to determine compliance with this Section.
  - A) The inspector shall notify the owner of the results of the inspection, and shall include the locations and characteristics of surfaces with inadequate treatment.
- B) A lead abatement project shall be deemed to be in compliance with these regulations if:
  - i) Lead dust levels on horizontal interior surfaces are below 200 micrograms per square foot; except that lead dust levels on all interior and exterior floors shall be below 50 micrograms per square foot, and
  - ii) All abated surfaces and all floors have been treated to provide smooth and easily cleanable surfaces.

- 2) Noncompliance. If the results of a lead dust analysis conducted do not meet the requirements of subsections (s)(1)(B)(i) or (ii) above, the owner or its agent shall perform a further cleanup as described in subsection (o). If results of the lead dust analysis meet the requirements of subsection (s)(1)(B)(i) or (ii) above, the Department or delegate agency shall state that the lead abatement project has been completed and complies with the Department's requirements. A statement of completion and compliance may not preclude the Department or delegate agency from taking any future enforcement action against the owner of the dwelling.

- t) Records. The Department or delegate agency shall retain for 6 years the following information for every lead abatement project prescribed by the Department or delegate agency:

- 1) name and address of the contractor who performed the project and the owner;
- 2) the location of the project;
- 3) a summary of abatement techniques used to comply with Department or delegate agency prescribed corrective action;
- 4) the location of the disposal site of the discarded lead-based substances which were removed by a contractor from the work site; and
- 5) the starting and completion dates of the lead abatement project.

(Source: Amended at 23 Ill. Reg. \_\_\_\_\_, effective

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DEPARTMENT OF AGRICULTURE  
 NOTICE OF ADOPTED AMENDMENT(S)  
 Name: Linda Rhodes  
 Address: Illinois Department of Agriculture  
 State Fairgrounds  
 Springfield, Illinois 62794-9281  
 Telephone: 217/785-5713  
 Facsimile: 217/785-4505

The full text of adopted amendment begins on the next page:

DEPARTMENT OF AGRICULTURE  
 NOTICE OF ADOPTED AMENDMENT(S)  
 1) Heading of the Part: Weights and Measures Act  
 2) Code Citation: 8 Ill. Adm. Code 600  
 3) Section Numbers: Adopted Action:  
 600.320 Amended  
 4) Statutory Authority: Weights and Measures Act [225 ILCS 470]  
 5) Effective Date of Amendment: July 26, 1999

- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal Published in Illinois Register: January 8, 1999; 23 Ill. Reg. 372
- 10) Has JCAR issued a Statement of Objections to this amendment? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no agreements.
- 13) Will this amendment replace an emergency amendment currently in effect?  
 No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This amendment clarifies the minimum amount of weight to be applied during a build up and a strain load test.
- The Department recently purchased new scale testing units that carry more calibrated test weights. Because of the method by which weights are now applied to a scale, the decreasing load test can no longer be applied at 12,000 pounds.
- The word "external" is being removed in subsection (i) to clarify that a truck is in reasonably level condition when all brakes, including the internal brakes, are released.
- 16) Information and questions regarding this adopted amendment shall be directed to:

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT(S)

TITLE 8: AGRICULTURE AND ANIMALS  
CHAPTER 1: DEPARTMENT OF AGRICULTURE  
SUBCHAPTER P: WEIGHTS AND MEASURES

## PART 600

## WEIGHTS AND MEASURES ACT

## SUBPART A: PACKAGING AND LABELING

Section	
600.1	National Institute of Standards and Technology Handbook 130
600.10	Definitions (Repealed)
600.20	Application (Repealed)
600.30	Identity (Repealed)
600.40	Declaration of Identity: Nonconsumer Package (Repealed)
600.50	Declaration of Responsibility: Consumer and Nonconsumer Packages (Repealed)
600.60	Declaration of Quantity: Consumer Packages (Repealed)
600.70	Declaration of Quantity: Nonconsumer Packages (Repealed)
600.80	Prominence and Placement: Consumer Packages (Repealed)
600.90	Prominence and Placement: Nonconsumer Package (Repealed)
600.100	Requirements: Specific Consumer Commodities, Packages, Containers (Repealed)
600.110	Exemptions (Repealed)
600.120	Variations to be Allowed (Repealed)
600.130	Standards of Fill (Repealed)
600.140	Wholesale and Retail Exemption
600.150	Revocation of Conflicting Regulations (Repealed)
600.160	Tables: Weights and Measures Standards for Illinois

## SUBPART B: ROOFING AND ROOFING MATERIALS

Section	
600.250	Roofing and Roofing Materials Shall Be Sold Either by the "Square" or by the "Square Yard." (Repealed)

SUBPART C: WEIGHING AND MEASURING DEVICES:  
METERS -- SCALES -- FEES

Section	
600.300	Vehicle Scales Regulation
600.310	Fees
600.320	Scales Used for the Enforcement of Highway Weight Laws
600.330	National Institute of Standards and Technology Handbook 44

## SUBPART D: MOISTURE METER TESTING

Section

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT(S)

600.350	General (Repealed)
600.360	Testing and Inspection (Repealed)
600.370	Rejected Moisture Testing Devices (Repealed)
600.380	Use of Moisture Measuring Devices (Repealed)

SUBPART E: REGISTRATION OF SERVICE AGENCIES, SERVICEMEN,  
AND SPECIAL SEALERS FOR COMMERCIAL  
WEIGHING AND MEASURING DEVICES

Section	
600.450	Policy (Repealed)
600.460	Definitions (Repealed)
600.470	Certificate of Registration (Repealed)
600.480	Types of Certificates (Repealed)
600.490	Examinations (Repealed)
600.500	Exemptions (Repealed)
600.510	Registration Fee (Repealed)
600.520	Reports (Repealed)
600.530	Bonds (Repealed)
600.540	Standards and Testing Equipment (Repealed)
600.550	Revocation of Certificate of Registration (Repealed)
600.560	Publication of Lists (Repealed)

## SUBPART F: LIQUID PETROLEUM MEASURING DEVICES

Section	
600.650	Use of Gasoline Pumps Which Are Not Capable of Computing the Prices Which Exceed 99.9¢ Per Gallon
600.660	Retail Liquid Petroleum Pumps Accurately Marked: Liters or Gallons
600.670	System Used to Sell Petroleum Product
600.680	Unit Price Per Gallon Displayed (Repealed)
600.690	Price of Gasoline
600.700	Unit Price Indicator: Set at One-Half Total Selling Price
600.710	Decals or Stickers Affixed to the Pump Face
600.720	Information Sign Indicating Half Gallon Pricing of Gasoline
600.730	Conversion Kits or Replacement Pumps: Deadline (Repealed)
600.740	Three-Wheel Computers Prohibited
600.750	One-Half Gallon Pricing Applicable to All Metering Pumps at Facility
600.760	Stop Use Order; Hearing

SUBPART G: ADVERTISEMENT OF THE PRICE OF LIQUID  
PETROLEUM PRODUCTS

Section	
600.800	Price Per Gallon or Liter in Advertisement
600.810	Height and Width of Numbers
600.820	Advertised Price Complete
600.830	Advertising Other Commodities; Misleading Advertising Prohibited

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT(S)

600.840 Product Identity and Type of Service  
 600.850 Advertisement of Price Not Required Except on Pump  
 600.860 Stop Use Order; Hearing

TABLE A	Minimum Height of Numbers and Letters (Repealed)
TABLE B	Standard Weight Per Bushel for Agricultural Commodities
TABLE C	Illinois Standard Weights and Measures
TABLE D	Equivalents: Cubic Inches in U.S. Standard Capacity Measures
TABLE E	Weights of Coal Per Cubic Foot
TABLE F	Equivalents to be used by Seller in Transposing Weights
TABLE G	Measurement of Surfaces and Volumes

**AUTHORITY:** Implementing and authorized by Section 8 of the Weights and Measures Act [225 ILCS 470/8].

**SOURCE:** Rules and Regulations Relating to the Weights and Measures Act, filed December 17, 1969, effective January 1, 1970; amended November 5, 1971, effective November 15, 1971; amended August 26, 1975, effective September 4, 1975; amended March 22, 1976, effective April 1, 1976; amended at 3 Ill. Reg. 45, p. 72, effective October 29, 1979; amended at 3 Ill. Reg. 45, p. 81, effective January 1, 1980; codified at 5 Ill. Reg. 10562; amended at 12 Ill. Reg. 8306, effective May 3, 1988; amended at 12 Ill. Reg. 15524, effective September 20, 1988; emergency amendment at 18 Ill. Reg. 4426, effective March 7, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14692, effective September 13, 1994; amended at 19 Ill. Reg. 8114, effective June 7, 1995; amended at 20 Ill. Reg. 303, effective January 1, 1996; amended at 22 Ill. Reg. 1141, effective January 1, 1998; amended at 23 Ill. Reg. **8813**, effective Jul 26 1999.

SUBPART C: WEIGHING AND MEASURING DEVICES: METERS -- SCALES -- FEES

## Section 600.320 Scales Used for the Enforcement of Highway Weight Laws

The following procedures will be used to determine the certification of scales used for the enforcement of highway weight laws. These procedures will determine if a scale(s) is to be certified or condemned. These rules supersede those published in the National Institute of Standards and Technology's Handbook 44.

a) A minimum build up test with known test weights shall be conducted as follows:

- 1) portable wheel load weigher scale - 10,000 pounds
  - 2) all other scales - 20,000 pounds
- An increasing load test consisting of at least 20,000 pounds of known test weight shall be conducted on all scales. A minimum of two known test weight loads shall be applied, normally at the capacity of test weight load and another at one half capacity of the test weight load to each scale.
- b) A 40,000 pound minimum strain load test shall be conducted only on a

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT(S)

vehicle scale, a scale that is adapted to weighing the entire vehicle at one time.

c) b) One decreasing load test shall be conducted at approximately one-half of test weight capacity 12,000-pounds-of-known-test-weight--to--97000 pounds--of--known--test--weight. If multiple scales are used in combination, a decreasing load test shall be performed on at least one scale.

c) A minimum build up or strain load test shall be conducted as follows:

- 1) wheel load and portable axle load scales--10,000-pounds
- 2) wheel load and portable axle load scales used in pairs--20,000-pounds

3) permanently installed axle load scales--20,000-pounds

4) all other scales--40,000-pounds

d) At least one repeatability test shall be conducted. Any errors found shall agree within the absolute value of the maintenance tolerance for that load, and shall be within applicable tolerance.

e) The tolerances to each of the above tests shall be those listed in the scale code of the latest edition of the National Institute of Standards and Technology's Handbook 44.

f) All new scales and associated equipment must have a certificate of conformance issued by the National Type Evaluation Program.

g) Electronic indicating elements equipped with recording elements shall be equipped with effective means to permit the recording of weight values only when the indication is stable within plus or minus three scale divisions.

h) The maximum scale division shall be 100 pounds.

i) For axle, portable axle, and wheel load weigher scales, a vehicle must be in a reasonably level condition at the time the weight is being determined. Reasonably level means the vehicle must remain stationary during weighing without the use of any external braking force.

j) For all other scales used to determine the weight of axles when part of the truck is not resting on a scale, the vehicle must be in a reasonably level condition at the time the weight is being determined.

k) All scales used for the enforcement of highway weight laws shall be certified at least once every twelve months.

l) Any registered serviceperson of the Illinois Department of Agriculture has the authority to place into service scales used for the enforcement of highway weight laws if the serviceperson conforms to the procedures listed above.

(Source: Amended at 23 Ill. Reg. **8813**, effective Jul 26 1999)



## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Affordable Housing Program
- 2) Code Citation: 47 Ill. Adm. Code 360
- 3) Section Numbers:  
360.601 Adopted Action:  
360.602 Amendment  
360.602 Amendment
- 4) Statutory Authority: Implemented and authorized by the Illinois Housing Development Act [20 ILCS 3805].
- 5) Effective Date of Rulemaking: July 26, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 23, 1999, 23 Ill Reg 4579.
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: Pursuant to First Notice and Second Notice changes from JCAR, the Authority made a series of nonsubstantive, technical and grammatical corrections throughout the rulemaking.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: A change in the maximum loan and grant amount.
- 16) Information and questions regarding these adopted amendments shall be directed to:  
Lori Silver, Esq.  
401 N. Michigan Ave., Suite 900  
Chicago, Illinois 60611  
Telephone: 312-836-7341

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

The full text of the adopted amendments begins on the next page:

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 360  
AFFORDABLE HOUSING PROGRAM

## SUBPART A: GENERAL RULES

Section	Authority
360.101	Purpose and Objectives
360.102	Definitions
360.103	Borrowing by the Authority
360.104	Compliance with Federal Law
360.105	Standards - Criteria
360.106	Forms and Procedures for the Program
360.107	Fees and Charges of the Authority
360.108	Waiver (Repealed)
360.109	Amendment
360.110	Severability
360.111	Gender and Number
360.112	Titles and Captions
360.113	Calendar Days
360.114	

## SUBPART B: USES

Section	Recipients
360.201	Beneficiaries
360.202	Permitted Uses of Trust Fund Monies
360.203	Market Rate Developments
360.204	

## SUBPART C: APPLICATION

Section	Application
360.301	Form
360.302	Review
360.303	Initial Contact
360.304	Site and Market Study/Rental Analysis
360.305	Feasibility Determination (Repealed)
360.306	Staff Recommendation
360.307	Advisory Commission
360.308	Authority Determination
360.309	Conditional Commitment
360.310	

## SUBPART D: NOTICE

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

## NOTICE OF ADOPTED AMENDMENTS

Notification by Authority  
Comments and Responses

Section	
360.401	
360.402	

## SUBPART E: RECIPIENT

Section	Eligible Applicants (Repealed)
360.501	Land Trusts
360.502	Books and Records
360.503	Audits
360.504	Annual Financial Report
360.505	Furnishing Information
360.506	Standards for Approval of Conveyance
360.507	

## SUBPART F: LOANS AND GRANTS

Section	Maximum Loan Amount and Priority
360.601	Maximum Grant Amount
360.602	Increase Above Maximum Loan or Grant Amount
360.603	Amortization
360.604	Recapture of Assistance
360.605	Prepayment of Loan
360.606	

## SUBPART G: CONSTRUCTION

Section	Design and Construction Standards
360.701	

## SUBPART H: MARKETING AND MANAGEMENT

Section	Marketing and Management
360.801	Marketing and Management Plans
360.802	Maintenance
360.803	Cost of Service
360.804	

## SUBPART I: TENANTS AND OCCUPANCY

Section	Displacement
360.901	Relocation Plan
360.902	Tenant Selection Plan and Participant Selection Plan
360.903	Income and Housing Expense Limits
360.904	Non-Discrimination
360.905	

## SUBPART J: ENERGY EFFICIENCY

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH  
NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Nursing Education Scholarships

2) Code Citation: 77 Ill. Adm. Code 597

3) Section Numbers: Adopted Action:  
597.200 Amendment  
597.210 Amendment  
597.220 Amendment  
597.320 Amendment

4) Statutory Authority: Implementing and authorized by Nursing Education Scholarship Law [110 ILCS 975].

5) Effective Date of Rules: August 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposed Rulemaking was Published in the Illinois Register:  
November 30, 1998 - 22 Ill. Reg. 20537

10) Has the Joint Committee on Administrative Rules issued a Statement of Objection to this rulemaking? No

11) Difference Between Proposal and Final Version:

Various typographical, grammatical and form changes were made in response to comments from the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the agency and the Joint Committee been made as indicated in the agreements issued by the Joint Committee?

All changes agreed upon by the Department and the Joint Committee have been made as indicated in the agreements issued by the Joint Committee.

13) Will the rulemaking replace an emergency rule currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and Purpose of Rules: This rulemaking provides clarification of application requirements, description of scholarships, selection criteria for award of scholarships, and repayment and forgiveness of scholarships.

ILLINOIS REGISTER

ILLINOIS HOUSING DEVELOPMENT AUTHORITY  
NOTICE OF ADOPTED AMENDMENTS

Section  
360.1001 Standards

SUBPART K: CERTIFICATIONS

Section  
360.1101 Environmental Assessment  
360.1102 Other Laws

AUTHORITY: Implementing Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)] and authorized by Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 2094, effective January 22, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 9117, effective May 24, 1990; amended at 15 Ill. Reg. 17088, effective November 19, 1991; emergency amendment at 18 Ill. Reg. 2124, effective January 12, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8663, effective May 25, 1994; amended at 22 Ill. Reg. 4321, effective February 4, 1998; amended at 23 Ill. Reg. 3692, effective March 15, 1999; amended at 23 Ill. Reg. 8819, effective JUL 26 1999.

SUBPART F: LOANS AND GRANTS

Section 360.601 Maximum Loan Amount and Priority

Loans shall not exceed \$1,250,000 \$500,000-00 for each Recipient. Priority shall be given to those applications which propose the lowest per unit total cost, lowest monthly housing expense, and longest affordability restrictions.

(Source: Amended at 23 Ill. Reg. 8819, effective JUL 26 1999.)

Section 360.602 Maximum Grant Amount

Grants by a Recipient to a Very Low-Income Household by a Recipient shall not exceed \$5,000. Grants by a Recipient to a Low-Income Household by a Recipient shall not exceed 3,000 \$27500. Grants to organizations or corporations shall not exceed \$750,000 \$500,000-00. Grants are not available to for-profit entities. All other provisions of this Part apply to Grants made by the Authority.

(Source: Amended at 23 Ill. Reg. 8819, effective JUL 26 1999.)



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 16) Information and questions regarding these adopted amendments shall be directed to:

Gail M. DeVito  
Administrative Rules Coordinator  
Division of Legal Services,  
535 West Jefferson, Fifth Floor  
Springfield, Illinois 62761  
(217) 782-2043  
(rules@dph.state.il.us).

The full text of the adopted amendments begins on the next page:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER 9: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 597  
NURSING EDUCATION SCHOLARSHIPS

## SUBPART A: INTRODUCTION

Section  
597.10 Definitions

## SUBPART B: ELIGIBILITY AND APPLICATION

Section  
597.100 Eligibility  
597.110 Application

## SUBPART C: AWARD OF SCHOLARSHIPS

Section  
597.200 Scholarship Description  
597.210 Determination of Financial Need  
597.220 Selection Criteria for Award of Scholarships

## SUBPART D: TERMS OF PERFORMANCE

Section  
597.300 Contract  
597.310 Repayment of Scholarship  
597.320 Forgiveness of Scholarship

AUTHORITY: Implementing and authorized by the Nursing Education Scholarship Law [110 ILCS 975].

SOURCE: Adopted at 17 Ill. Reg. 13763, effective August 10, 1993; amended at 18 Ill. Reg. 17720, effective November 30, 1994; amended at 21 Ill. Reg. 4828, effective March 29, 1997; amended at 23 Ill. Reg. ~~8824~~ <sup>406-1</sup> <sub>1999</sub> effective ~~1-1-1999~~.

## SUBPART C: AWARD OF SCHOLARSHIPS

## Section 597.200 Scholarship Description

- a) Scholarships for tuition, fees, and living expenses will be awarded by the Department through approved institutions. Scholarships will be awarded to eligible students who meet the eligibility requirements as outlined in Section 597.100 of this Part and who agree to the

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

provisions of the contract agree to the provisions of the contract and who meet the eligibility requirements as outlined in Section 597.100 of this Part.

- b) A full-time student pursuing an associate degree in nursing, a hospital-based nursing diploma or a baccalaureate degree in nursing may receive a scholarship of up to \$2,500 per academic year for living expenses and up to \$2,000 per academic year for tuition and fees for a maximum of \$4,500 per academic year, less any other assistance as reported by the recipient's educational institution. A scholarship shall be for \$2,500 per year for living expenses for the full-time student and up to \$2,000 per year for full-time tuition and fees, or a maximum of \$4,500 per year, less any other State or Federal assistance received by applicant to assist applicant's pursuit of an associate degree in nursing or hospital-based nursing program diploma, or baccalaureate degree in nursing, or practical nursing diploma (Section 7 of the law).

- c) A part-time student pursuing an associate degree in nursing, a hospital-based nursing diploma or a baccalaureate degree in nursing may receive a scholarship of up to \$2,000 per academic year for tuition and fees, less any other assistance as reported by the recipient's educational institution. A scholarship may be made to a part-time student (but not less than 1/3 time) student but it shall cover only tuition and fees and shall not exceed the aggregate of \$4,000 for the total time applicant may take to complete the associate degree nursing education program or hospital-based nursing program in nursing, or baccalaureate nursing program, or practical nursing education program (Section 7 of the law).

- d) A student pursuing an associate degree in nursing or a hospital-based nursing diploma on a full-time basis may receive a scholarship for 3 academic years. A student pursuing an associate degree in nursing or a hospital-based nursing diploma on a part-time basis may receive an aggregate of \$4,000 for the total time it takes to complete the degree. The full-time student applicant may receive a scholarship for 3 academic years if pursuing an associate degree in nursing or hospital-based nursing program diploma, and for 4 academic years if pursuing a baccalaureate in nursing degree, and for one year if pursuing a practical nursing diploma (Section 7 of the law).

- e) A student pursuing a baccalaureate degree in nursing on a full-time basis may receive a scholarship for four academic years; or, if on a part-time basis, for an aggregate of \$4,000 for the total time it takes to complete the degree.

- f) A student pursuing a practical nursing certificate on a full-time basis may receive a scholarship for one academic year for a maximum of \$4,500.

- g) A student pursuing a practical nursing certificate on a part-time basis may receive a scholarship for one academic year for a maximum of \$2,000.

- h) The scholarship is paid to an approved institution on behalf of the

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

recipient and is based on tuition and fee amounts requested by the financial aid office at the institution up to the annual maximum amount. If enrollment is reported as full-time, a living expense stipend is also paid according to the following definitions:

- 1) two (2) semesters are equivalent to an academic year and each semester of full-time enrollment warrants a stipend of \$1,250, not to exceed a maximum of \$2,500 during any one academic year.
- 2) three (3) quarters or trimesters are equivalent to an academic year and each quarter/trimester warrants a stipend of \$833, not to exceed a maximum of \$2,500 during any one academic year.

i) Scholarship awards for tuition and fees for students at approved private approved institutions shall not exceed the Statewide average tuition and fees for students at approved public approved institutions for the academic year in which the scholarship is made.

(Source: Amended at 23 Ill. Reg. 8824 effective 4/6 - 1/1/99)

## Section 597.210 Determination of Financial Need

Financial need will be documented by means of a current on-the Student Aid Report (SAR) supplied by the applicant.

(Source: Amended at 23 Ill. Reg. 8824 effective 4/6 - 1/1/99)

## Section 597.220 Selection Criteria for Award of Scholarships

- a) Recipients shall be selected on the basis of the following criteria:

- 1) preference for renewal recipients;
- 2) greatest financial need when the number of qualified applicants exceeds the number of scholarships to be awarded;
- 3) least amount of other financial/gift assistance for applicants who have equal financial need; and
- 4) for practical nursing applicants: lottery among applicants who have equal financial need; or
- 3) 5) in each of the education categories of for associate degree in nursing, hospital-based nursing diploma, and baccalaureate degree to degree completion:

- A) least number of hours remaining to degree completion; and
- B) for applicants within each nursing category: lottery among applicants who have an equal number of hours remaining to degree completion.

- b) When multiple applicants meet the selection criteria equally, a lottery will be used to select scholarship recipients.

- 1) A lottery will be used for associate degree in nursing, hospital-based nursing diploma and baccalaureate degree in





## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

after graduation ~~he or she~~ graduates, the period of military service shall be excluded from the computation of that 7 year period (Section 6 of the Law).

f) ~~A~~ A recipient who is enrolled in an academic program leading to a graduate degree in nursing shall have the period of graduate study excluded from the computation of that 7 year period (Section 6 of the Law).

g) ~~If~~ If a recipient dies or suffers total and permanent disability either while pursuing the degree, or after completing the degree, if the recipient is engaged in an activity as described in this Section up to the onset of the fatal illness or the disability, the scholarship or any balance due on it shall be excused and deemed satisfied. (See the definition of "Total and Permanent Disability" in Section 597.10.)

(Source: Amended at 23 Ill. Reg. 8824 effective AUG - 1 1999 )

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

1) Heading of the Part: Subacute Alcoholism and Substance Abuse Treatment Services

2) Code Citation: 77 Ill. Adm. Code 2090

3) Section Numbers: Emergency Action:

2090.10	Amended
2090.20	Amended
2090.30	Amended
2090.35	Amended
2090.40	Amended
2090.70	Amended
2090.80	Amended
2090.100	Amended

4) Statutory Authority: Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].

5) Effective Date of Amendment: July 23, 1999

6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A

7) Date Filed with the Index Department: July 23, 1999

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Reason for Emergency: The current rules exclude medically monitored detoxification as a covered service under Medicaid. Thus, for those Medicaid clients in need of this service, coverage is denied and providers cannot deliver the service or must use other fund sources to pay for it. When this occurs, this money is often not then available for non-Medicaid clients (i.e., the working poor who often have no insurance or are under insured) who need detoxification. This current exclusion causes a threat to the public safety and welfare as these individuals in need of immediate care are not provided it. This emergency amendment will allow reimbursement for this service. Another revision allows the removal of daily restrictions on Level II services and reimbursement of Level II care in the same manner as Level I care. This will allow correct and fair reimbursement for these services and assure the clients receive the service they need to address their dependencies.

10) A Complete Description of the Subjects and Issues Involved: This rulemaking adds medically monitored detoxification as a covered service under Medicaid. By adding this service the Department will make this service available to other non-Medicaid eligible clients. This will allow these

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

individuals to receive immediate care for their alcoholism or other drug impairment. The rulemaking also changes the rate of payment for Level II service (intensive outpatient) to make the reimbursement method similar to the Level I services.

Also, the revisions reflect recent administrative and procedural changes within DHS.

- 11) Are there any proposed amendments to this Part Pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding these amendments shall be directed to:

Ms. Susan Weir, Bureau Chief  
Bureau Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
3rd Floor Harris Bldg.  
Springfield, Illinois 627652  
217/785-9772

The full text of the emergency amendments begins on the next page:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH  
CHAPTER X: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER 9: MEDICAID PROGRAM STANDARDS

## PART 2090

## SUBACUTE ALCOHOLISM AND SUBSTANCE ABUSE TREATMENT SERVICES

Section	Purpose
2090.10 <u>EMERGENCY</u>	
2090.20	Definitions
2090.30 <u>EMERGENCY</u>	Medicaid Certification/Enrollment/Recertification
2090.35 <u>EMERGENCY</u>	General Requirements
2090.40 <u>EMERGENCY</u>	Reimbursable Services
2090.50	Quality Improvement
2090.60	Client Records
2090.70	Rate Setting
2090.80 <u>EMERGENCY</u>	Rate Appeals
2090.90 <u>EMERGENCY</u>	Inspections
2090.100	Sanctions for Non-Compliance/Audits
2090.105 <u>EMERGENCY</u>	Inspections (Renumbered)
2090.110	Sanctions for Non-Compliance/Audits (Renumbered)

**AUTHORITY:** Implementing and authorized by Section 5-10 of the Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301/5-10].

**SOURCE:** Adopted at 11 Ill. Reg. 2236, effective January 14, 1987; emergency amendments at 12 Ill. Reg. 11273, effective June 30, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 20061, effective November 26, 1988; emergency amendments at 15 Ill. Reg. 10222, effective June 25, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 16662, effective November 1, 1991; amended at 16 Ill. Reg. 11807, effective July 14, 1992; amended at 18 Ill. Reg. 14223, effective September 2, 1994; amended at 19 Ill. Reg. 9411, effective July 1, 1995; amended at 19 Ill. Reg. 10454, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 12489, effective August 30, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1600, effective January 27, 1997; recodified from the Department of Alcoholism and Substance Abuse to the Department of Human Services at 21 Ill. Reg. 9319; emergency amendment at 21 Ill. Reg. 14087, effective October 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 5895, effective March 13, 1998; emergency amendment at 22 Ill. Reg. 12189, effective June 24, 1998, for a maximum of 150 days; emergency expired November

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21, 1998; amended at 22 Ill. Reg. 22403, effective December 8, 1998; emergency amendments at 23 Ill. Reg. 8832, effective July 23, 1999, for a maximum of 150 days.

Section 2090.10 PurposeEMERGENCY

- a) The requirements set forth in this Part establish criteria for participation by subacute alcoholism and other drug abuse treatment programs in the Illinois Medical Assistance Program operated by the Illinois Department of Public Aid (IDPA) (89-III-Adm-Code-48-340).
- b) The Department of Human Services (the Department), acting on behalf of IDPA the Department of Public Aid, shall certify the eligibility of applicants for participation who meet these requirements.
- c) These requirements are in addition to licensure standards established in 77 Ill. Adm. Code 2507 (Hospital Licensing Requirements) and 77 Ill. Adm. Code 2060 (Alcoholism and Substance Abuse Treatment and Intervention Licenses), and are for the purpose of assuring that Medicaid recipients shall receive quality services in accordance with 42 CFR 440 and 456.
- d) These requirements shall be used by the Department for certification, recertification, and periodic inspection of providers participating in the Medical Assistance Program.
- e) In addition to the duties of the Department above, the Department shall also allocate monies within its budget, which shall be for the purpose of reimbursement to certified providers for Medicaid eligible services, as described in this Part, herein on behalf of the Illinois Department of Public Aid (IDPA). The Department shall, together with and by agreement with IDPA, provide for such reimbursement out of such funds.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 8832, effective July 23, 1999, for a maximum of 150 days)

Section 2090.20 DefinitionsEMERGENCY

The following definitions shall apply to this Part:

"Adolescent": A person who is at least twelve years of age and under eighteen years of age.

"Benefit Year": The State fiscal year.

"Client": Any person who is eligible to receive services under one of the following categories: Aged, Blind, and Disabled (AABD); Temporary Assistance for Needy Families (TANF); Medical Assistance, No Grant (MANG); Refugee Repatriate Program (RRP); Title XIX eligible

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Department of Children and Family Services (DCFS) wards; and persons under the age of eighteen who would qualify for TANF but do not qualify as dependent children pursuant to 89 Ill. Adm. Code 140.7.

"Department": The Illinois Department of Human Services.

"Follow-up": A scheduled provider contact with a former client that occurs after the client has been discharged, has been previously specified in the client's treatment and continuing care plan, and occurs for a period of time and at specified intervals, follow-up is for the purpose of offering the discharged client continuing assistance as necessary to maintain and improve upon the clinical goals achieved during treatment.

"Physician": A person who is licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60].

"Professional Staff": Any person who provides clinical services as defined in 77 Ill. Adm. Code 2060 and who meets the requirements for professional staff as specified in 77 Ill. Adm. Code 2060.309. Professional staff may also be a person determined to be appropriate to deliver the clinical services provided, in accordance with 77 Ill. Adm. Code 250, Subpart W.

"Provider": Any public or private agency, organization, or institution, or unit of State or local government or other legal entity licensed to deliver alcoholism or other drug abuse services according to the requirements specified in 77 Ill. Adm. Code 2060 and enrolled to provide treatment services under the Illinois Medical Assistance Program.

"Psychiatrist": A person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60] and who meets the requirements of Section 1-121 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121].

"Subacute": The level of care necessary to effectively treat an alcohol and/or other drug abuser's dependency on a chemical without the more intensive measures designed to treat primary medical conditions in an acute care setting (e.g., inpatient hospitalization). Subacute care may be delivered in a facility licensed under the rules for Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060) or in a hospital, either of which is certified according to Section 2090.30 for purposes of Medicaid reimbursed alcoholism and/or other drug abuse services.

"Treatment Plan": An individually written plan for a client which identifies the treatment goals and objectives based upon a clinical



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assessment of the client's individual problems, needs, strengths and weaknesses.

"Under the direction of a physician": Treatment services provided under the direct supervision of a physician who is on staff and continuously directs the provision of care.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. **8832** effective July 23, 1999, for a maximum of 150 days)

### Section 2090.30 Medicaid Certification/Enrollment/Recertification EMERGENCY

a) Providers may be certified and recertified by the Department as set forth herein and may enroll for participation in the Illinois Medical Assistance Program as provided in 89 Ill. Adm. Code 148.340(d). Application for Medicaid certification and enrollment for alcoholism and other drug abuse treatment service providers may be made by providers who are:

- 1) Currently licensed by the Department under the provisions of 77 Ill. Adm. Code 2060 for alcoholism and other drug abuse treatment services described in 77 Ill. Adm. Code 2060.
- 2) Currently licensed by the Illinois Department of Public Health as a hospital pursuant to 77 Ill. Adm. Code 250 for the treatment services described in 77 Ill. Adm. Code 250.

b) Medicaid Certification  
1) Applications for certification may be obtained in person or by writing to:

Illinois Department of Human Services  
100 W. Randolph, Suite 5-600 ~~160-N--Eastlake~~ **Sutte-N780**  
Chicago, Illinois 60601  
Attention: Division of Licensing and Certification Monitoring  
(312)-814-4718  
(312)-419-8432-~~858~~

or

Illinois-Department-of-Human-Services  
222-S-Collage-2nd-floor  
Springfield-Illinois-62784  
Attention--Division-of-Licensing-and-Monitoring  
(317)-782-0685  
(317)-524-5183-~~858~~

- 2) Applicants for new certification will be accepted from programs or parent organizations of such programs which have been licensed as specified in this Section for at least two years. Applicants

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shall demonstrate two years of experience in providing quality substance abuse services of the kind for which certification is being requested and for the type of population which will be served.

- 3) Applicants shall submit documentation of the following:
  - A) evidence of the need within the community for the type of services to be provided by the program for which certification is sought;
  - B) description of the organization that will be operating the program;
  - C) fiscal solvency of the organization;
  - D) description of the physical facilities to be utilized by the program;
  - E) description of the program and the clientele it serves;
  - F) projection of the total number of Medicaid clients to be served each month, the average length of stay anticipated, and the estimated average per person cost of treatment;
  - G) schedule of the specific dates, times and places services will be provided;
  - H) number and type of people served during the previous two years in the program for which certification is sought and a description of the people served (demographics, gender, drug of choice, Medicaid eligibility, income level, etc.);
  - I) name, address and professional qualifications of the program's Medical Director;
  - J) name and qualifications of each individual who will be staffing the program and a description of that individual's responsibilities with respect to the program;
  - K) copies of written referral agreements with other social service systems and primary medical care service systems within the applicant's area;
  - L) copies of linkage agreements with other substance abuse treatment programs within the applicant's area implemented to assure availability of all levels of care as required in 77 Ill. Adm. Code 2060;
  - M) documentation of the program's quality assurance system and utilization review policy as applied to the program's clinical standards which have been used for the previous two years, with a copy of the two most recent utilization review reports; and
  - N) measurable outcome evaluation process used for the past two years and statistics on the program's client outcomes.
- 4) Applicants ~~who receive funding from the Department~~ shall submit evidence that they are in compliance with all applicable Department audit requirements as specified in 89 77 Ill. Adm. Code 507 20307 Subparts-B-and--6-and--Sections-2030-710-and-2030-740. Applicants ~~who do not receive funding from the Department--shall submit copies of the two previous years' annual~~

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~~audits according to the standards established in 89 Ill. Adm. Code 507 and two copies of the statistical and financial data submitted in a format required by the Department in 77 Ill. Adm. Code 2030-710.~~

- 5) Applications which are missing significant components or which have inadequate information shall be returned to the applicant with a statement specifying the missing or inadequate information. Completed applications may be resubmitted. Applications which are missing less significant components may be held by the Department and the applicant notified in writing of the missing information. The applicant may submit only the missing components. The Department shall hold such incomplete applications no more than 30 calendar days.

- 6) Certification is site-specific and services are to be provided on-site, unless they are provided in accordance with the off-site service provisions as set forth in 77 Ill. Adm. Code 2060.203.

- 7) Sites providing 24 hours of services to clients and having more than 16 beds shall not be certified for Medicaid enrollment for other than adolescent residential rehabilitation services.

- 8) In order to receive certification for a site having 16 beds or less, a program must meet the following criteria:

- A) be a free-standing program of 16 or fewer beds; or  
B) be within a larger facility, as a distinct unit of 16 beds or less, which:

- i) is licensed;
- ii) is physically separate from other certified and licensed programs (for example, separated by floors, wings, or other building sections);
- iii) provides a level of care significantly different in clinical content from other certified and licensed programs (for example, adult versus adolescent care, women versus men, hearing impaired versus non-impaired);
- iv) has a separate cost center (budgeting, accounting, etc.);
- v) has separate staffing; and
- vi) has separate operating policies and procedures.

- 9) Prior to certification, the Department shall conduct an on-site inspection.

- 10) Based upon the on-site inspection and a review of the application for certification, the Department will certify the program if the Department determines that:

- A) the applicant has proven that an unmet need for the services exists in the community the program will serve;
- B) the organization operating the program is fiscally sound and responsible;
- C) the program management is experienced in business and in the delivery of substance abuse services;

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- D) the program has sufficient written agreements with social, medical and other substance abuse service providers within its area to assure proper linkage of services to an individual;
- E) the program has experience with the Medicaid eligible population it intends to serve;
- F) the program has adequate physical facilities and adequate numbers of professional staff to provide the services;
- G) the program conducts utilization review and has a quality improvement plan; and
- H) the program has a measurable outcome evaluation process in place that provides measurable indicators of improvement by program participants.

- 11) The Department shall notify the applicant in writing of its determination regarding certification.

- A) Approval of Certification/Medicaid Enrollment  
If the Department certifies the program, it shall include the Department of Public Aid's (IDPA) Medicaid enrollment forms with the letter of certification. The applicant shall submit the completed enrollment forms along with a copy of the letter of certification to IDPA. However, providers who have applied for hospital licensure for the first time and hold a provisional hospital license for treatment services are not eligible to apply for Medicaid enrollment for those treatment services.

- B) Denial of Certification  
If the Department is not able to certify the program based on the criteria outlined in this Section, the Department shall notify the applicant in writing, describing those deficiencies that will result in a denial of the certification. The applicant has 60 days after receipt of the notice to correct the deficiencies and supply the new information to the Department. If the new information indicates that the program meets the criteria of this Part, the Department shall certify the applicant. If the program continues to fail to meet the requirements of this Part, the Department shall deny the application for certification. If certification is denied, the applicant may appeal the Department's decision and request a hearing pursuant to 89 Ill. Adm. Code 104: Subpart C (Medical Vendor Hearings). 77 Ill. Adm. Code 2000 (Rules of Practice and Procedure--in Administrative Hearings).

- 12) Certification shall be effective on the date of approval by the Department and shall remain in effect until the expiration of the provider's license as required in this Section or for three years for any provider not licensed by the Department. Certification is also subject to any sanctions levied under Section 2090.100 of this Part. After the effective date of certification, the

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provider may deliver services to Medicaid recipients that will be reimbursable after the applicant completes the IDPA Medicaid enrollment procedure.

- 13) When and if a certified provider is no longer licensed as set forth in this Section (whether voluntarily or involuntarily) the certification shall be null and void. Upon proof by the Department's licensing division that the license is no longer in effect, the Department shall notify the provider by certified mail that certification is null and void.

## 14) Recertification

- A) To be eligible for recertification, providers shall be in compliance with all Sections of 77 Ill. Adm. Code 2060 referenced in this Part.

- B) To be eligible for recertification, providers who receive funding from the Department shall be in compliance with all applicable Department audit requirements specified in 89 77 Ill. Adm. Code 507 20307--Subparts--B--and--G--and--Sections 2030-710--and--2030-740. Providers who do not receive funding from the Department shall submit one copy of all annual audits during the previous certification period, according to the standards established in 89-111-Adm. Code--5077--and two copies of statistical and financial data submitted on forms required by the Department.

- C) Providers shall apply for recertification at least 90 days prior to the expiration of the provider license.

- D) Providers shall submit a recertification application provided by the Department. In addition, the provider shall submit copies of all utilization review (UR) reports and results of the program's measured outcome evaluations since the date of last inspection.

- E) The Department shall review all documents and the results of the last licensure inspection and shall recertify the program if it complies with the requirements of the Alcoholism and Other Drug Abuse and Dependency Act and this Part.

## 15) Denial of Recertification

If the Department is not able to recertify the program based on its review and inspection, the Department shall notify the applicant in writing, describing those deficiencies that will result in a denial of the recertification. The applicant has 30 days after receipt of the notice to correct the deficiencies and supply the new information to the Department. If the new information indicates that the program meets the criteria of this Part, the Department shall recertify the program. If the program continues to fail to meet the requirements of this Part, the Department shall deny the application for recertification and shall notify the applicant in writing, giving the reasons for the denial. The provider may appeal the Department's decision and

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request a hearing pursuant to 89 77 Ill. Adm. Code 104: Subpart C (Medical Vendor Hearings). 2000 (Rules of Practice and Procedure in Administrative Hearings). Certification shall remain in effect pending the Department's final decision on recertification unless the provider is sanctioned pursuant to Section 2090.100 of this Part. When the denial of recertification is final, the provider shall arrange for transfer of all Medicaid clients of the program as appropriate.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 8832 effective July 23, 1999, for a maximum of 150 days)

## Section 2090.35 General Requirements

EMERGENCY

- a) To be reimbursable, treatment services shall be provided in compliance with all provisions specified in 77 Ill. Adm. Code 2060. Specifically, physician and professional staff involvement in treatment services shall be in compliance with 77 Ill. Adm. Code 2060.417, 2060.419, 2060.421, 2060.423 and 2060.425. The provider shall only bill for services that are reimbursable.

- b) The provider shall submit Medicaid claims on a timely basis. Claims shall be submitted as soon after the service date as is reasonable unless there is good cause for later submission. In any event, all if a clean claims claim for a services (both initial and previously rejected) must be service provided within a State fiscal year--is not submitted to the State on a timely enough basis to be paid within the State fiscal year--lapse period--the provider must pursue reimbursement through the Court of Claims. Claims submitted later than 12 months from the date of service shall not be reimbursed by the State. If such claims are not submitted within this time frame, the provider may request an exception from the Department and IDPA to allow these claims to be processed. Exceptions will only be granted if it is determined that the delay in submission was due to Department or IDPA processing errors. The provider shall only bill for services which are reimbursable.

## c) Information Collection

- i) The provider shall report on a monthly basis demographic and service system data using the Department's Automated Reporting and Tracking System (DARTS). The data collected shall be for the purpose of assessing individual client performance and for planning for future service development. Information to be reported by the provider for each individual served by a program certified under Section 2090.99 of this Part, shall include but is not limited to the following:

A) Name, date of birth, gender, race and national origin family size, income level, marital status, residential address, employment, education and referral source.



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- B) ~~Special-population-designation--such--as--Medicaid--eligible clients--women--with--dependent--children--intravenous-drug users--(IVBUs)--BHS--clients--BHS--clients--and--criminal justice--clients--~~
- E) ~~Drug/alcohol--problem--areas--treated--characterized--by--drugs of--use--frequency--of--use--and--medical--diagnosis--~~
- B) ~~Closing--date--information--such--as--the--reason--for--discharging the--client--from--the--program--~~
- 2) ~~The--Department--shall--supply--providers--with--BARTS--software--~~
- 3) ~~Disclosure--of--information--contained--within--BARTS--is--governed--by the--specific--provisions--of--the--federal--regulations--under Confidentiality--of--Alcohol--and--Drug--Abuse--Patient--Records--(42-CFR 2-(1997))--~~

The provider shall submit billings using the Department's Automated Reporting and Tracking System (DARTS) or another software system accepted by the Department. The DARTS system shall be supplied free of charge to all providers.

- d) The reimbursement limits herein shall not be applied in situations where to do so would deny an eligible individual under age 21 from receiving "early and periodic screening, diagnostic and treatment services" (EPSDT) as defined in 42 USC 1396d(r). Services as set forth in this Part shall be reimbursable to an eligible individual under age 21 for as long as the services are clinically necessary pursuant to review which is consistent with subsection (a) of this Section.
- e) The reimbursement limits herein shall not be applied where to do so would deny services to a pregnant woman that have been determined to be clinically necessary pursuant to review which is consistent with subsection (a). This exemption from the limits exists during the pregnancy and through the end of the month in which the 60-day period following termination of the pregnancy ends (post partum period), or until the services are no longer clinically necessary, whichever comes first. This exemption shall not apply to a woman who enters treatment services after delivery.
- f) The provider shall not be reimbursed for services delivered in more than one Medicaid covered subacute alcoholism or other drug abuse level of care per client per day except for ancillary psychiatric diagnostic services.
- g) Group treatment in Level I and II care shall be reimbursed only for up to 12 clients per group that are supported by any type of Department contract funding.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. ~~8832-2~~ effective July 23, 1999, for a maximum of 150 days)

## Section 2090.40 Reimbursable Services

EMERGENCY

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- a) Level I: (formerly Outpatient Services)
- 1) Definition  
The provision of treatment services as defined in 77 Ill. Adm. Code 2060.401(b).
- 2) Reimbursement  
Level I treatment services delivered to clients are Medicaid-reimbursable via the prospective rates in effect as of the date of service (89 Ill. Adm. Code 148.370). Medicaid claims are submitted to the Department and shall meet the requirements of IDPA rules for alcoholism and substance abuse treatment programs (89 Ill. Adm. Code 148.340 through 148.370). The billable outpatient unit of service is a client hour defined as face-to-face counseling with a diagnosed client in an individual or group, or family setting. Reimbursement shall occur by a fee-for-service mechanism, using one client hour as the base unit of service, billable to the nearest quarter-hour. No more than 25 hours may be reimbursed for an eligible adult client per benefit year.
- b) Level II: (formerly Intensive Outpatient Services)
- 1) Definition  
The provision of treatment services as defined in 77 Ill. Adm. Code 2060.401(c).
- 2) Reimbursement  
Level II drug-free treatment services delivered to clients are Medicaid reimbursable via the prospective rates in effect as of the date of service (89 Ill. Adm. Code 148.370). ~~Drug-free treatment-as-referenced--herein--is--that--which--does--not--include--the use--of--Methadone--or--levo-alpha-acetylmethadol--(LAAM)--~~ Medicaid claims are submitted to the Department, and shall meet the requirements of IDPA rules for alcoholism and substance abuse programs (89 Ill. Adm. Code 148.340 through 148.370). The billable unit of service is a client hour defined as face-to-face counseling with a diagnosed client in an individual or group setting. Reimbursement shall occur by a fee-for-service mechanism, using one client hour as the base unit of service billable to the nearest quarter-hour. ~~Services--for--clients enrolled--in--level--II--(intensive-outpatient)--treatment--shall--not be--reimbursed--under--the--provisions--for--level--II--outpatient--services--~~ No more than 75 hours shall be reimbursed for an eligible adult client per benefit year.
- c) Level III: (formerly Inpatient/Residential Services)
- 1) Definition-Adolescent Residential Rehabilitation  
The provision of treatment services as defined in 77 Ill. Adm. Code 2060.401(d). Such treatment shall be drug-free for adolescents on a scheduled-only residential basis in a Medicaid enrolled hospital subacute setting, or to adolescents in a psychiatric facility or an inpatient program in a psychiatric facility, either of which is accredited by the Joint Commission

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on Accreditation of Health Care Organizations (JCAHO), One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181. ~~Drug-free treatment as referenced herein is that which does not include the use of Methadone or levo-alpha-methylmethadol (BAM). This service is designed to reduce or eliminate an adolescent's intake of alcohol and/or other drugs.~~

Adolescent residential rehabilitation must be delivered in accordance with an adolescent's individualized treatment plan recommended by a physician if in a hospital setting, and under the direction of a physician if in a psychiatric facility.

- 2) Reimbursement  
Adolescent residential rehabilitation treatment services delivered to clients are Medicaid reimbursable via the prospective rates in effect as of the date of service (89 Ill. Adm. Code 148.370). Medicaid claims are submitted to the Department and shall meet the requirements of IDPA rules for alcoholism and substance abuse treatment programs (89 Ill. Adm. Code 148.340 through 148.370). Reimbursement shall occur on a per diem basis. ~~Services in an adolescent residential rehabilitation program with over 16 beds shall not be reimbursed under the provisions for level I (outpatient) or level II (intensive outpatient) services.~~

- 3) Definition-Day Treatment  
The provision of treatment services as defined in 77 Ill. Adm. Code 2060.401(d). ~~That drug-free treatment shall be services on a scheduled-only residential basis by a program licensed pursuant to 77 Ill. Adm. Code 2060 and certified as having 16 beds or fewer as specified in Section 2090.30 of this part and excluding room and board, meals, night supervision of dormitory areas and other domiciliary support services. Drug-free treatment as referenced herein is that which does not include the use of Methadone or levo-alpha-methylmethadol (BAM). Treatment services may be provided to adults and adolescents.~~  
~~Day treatment services shall be reimbursed at an all-inclusive per diem rate as set forth in Section 2090.70(f)(4), available upon certification of the facility. No more than 30 days shall be reimbursed for an eligible adult client.~~

- 4) Reimbursement  
Day treatment services delivered to clients are Medicaid reimbursable via the prospective rates in effect as of the date of service (89 Ill. Adm. Code 148.370). Day treatment services shall be reimbursed at a per diem rate. No more than 30 days shall be reimbursed for an eligible adult client per benefit year.

- 5) Definition - Medically Monitored Detoxification  
The provision of detoxification services as defined in 77 Ill. Adm. Code 2060.405(a). Such services shall occur in a residential program licensed pursuant to 77 Ill. Adm. Code 2060

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and certified as having 16 beds or fewer as specified in Section 2090.30 of this Part, excluding room and board, meals, night supervision of dormitory areas and other domiciliary services. The treatment shall be for individuals 18 years or older (individuals who are 17 years old may be included provided that their assessment includes justification based on behavior and life experience).

## 6) Reimbursement

Medically monitored detoxification services delivered to clients are Medicaid reimbursable via the prospective rates in effect as of the date of service (89 Ill. Adm. Code 148.370). Medicaid claims are submitted to the Department and shall meet the requirements of IDPA rules for alcoholism and substance abuse treatment programs (89 Ill. Adm. Code 148.340 through 148.370). Medically monitored detoxification shall be reimbursed at a per diem rate. No more than nine days shall be reimbursed for each eligible adult patient per benefit year.

## d) Ancillary Psychiatric Diagnostic Services

- 1) Ancillary psychiatric diagnostic services are limited psychiatric evaluations to determine whether the client's primary condition is attributable to the effects of alcohol or drugs or to a diagnosed psychiatric or psychological disorder. Such an evaluation shall determine the client's primary condition and recommend appropriate treatment services.

- 2) Reimbursable psychiatric evaluations are limited to a psychiatric evaluation/examination of a client and the exchange of information with the primary physician and other informants such as nurses, counseling staff, or family members and the preparation of a report including psychiatric history, mental status, and diagnosis. This service shall be performed by a psychiatrist.

- 3) Reimbursable psychiatric evaluations may be delivered to clients admitted to levels I, II, and III care--(adolescent--residential rehabilitation or day treatment) where the need for such services is documented in the client's individualized treatment plan. Documentation of all such services shall be maintained in the client record.

- 4) Ancillary diagnostic services delivered to clients are Medicaid-reimbursable on a per-encounter basis at the practitioner's usual and customary charge, not to exceed the prevailing rate as established by IDPA pursuant to 89 Ill. Adm. Code 140.400.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. effective July 23, 1999, for a maximum of 150 days)

Section 2090.70 Rate Setting  
EMERGENCY

8832



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- a) The amount approved for payment for alcoholism and other drug abuse treatment is based on the category and amount of services required by and actually delivered to a client. The amount is determined in accordance with prospective rates developed by the Department and adopted by the Department of Public Aid. The adopted rate shall not exceed the charges to the general public.
- b) ~~Rates are cost-based and are established annually for each service. Costs will be determined based upon the information submitted by the provider in accordance with 2090.90(f).~~
- c) Rates are generated through the application of formal methodologies specific to each reimbursable service as specified in Section 2090.40 of this Part.
- d) ~~The provider shall not be reimbursed for more than one Medicaid covered substance abuse or other drug abuse service per client per day except for ancillary services which may be reimbursed in addition to one of the other Medicaid covered services. Level I (outpatient) and Level II (intensive outpatient) services, which may be delivered in a group setting, shall be reimbursed only for up to 12 clients supported by Department funding (Medicaid or other).~~
- f) ~~Hospitals~~  
~~the Department shall establish rates with hospitals delivering substance services who are certified pursuant to this Part. Rates shall be based on the reimbursable services in Section 2090.40 of this Part, and shall be subject to the provisions of this Section.~~

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 8832 effective July 23, 1999, for a maximum of 150 days)

## Section 2090.80 Rate Appeals

EMERGENCY

- a) Providers may appeal their rates in writing within 30 calendar days of the postmark date of the rate notice.
- b) Appeals shall be submitted to the Department.
- c) The Department shall determine whether a reason for the appeal exists pursuant to subsection (d) of this Section and that the written appeal contains all elements required in subsection (e) of this Section. Further clarification of the information submitted may be requested of the provider. ~~The Department shall forward a recommendation to SBPA within 60 calendar days of receipt of the appeal. SBPA shall make the final administrative decision based upon the appeal's conformity with this Part.~~
- d) Rate appeals may be considered for the following reasons:
- 1) Mechanical or clerical errors committed by the provider in reporting historical expenses used in the calculation of allowable costs.
  - 2) Mechanical or clerical errors committed by the Department in

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- auditing historical expenses as reported and/or in calculating reimbursement rates.
- 3) The Department and the provider have entered into a written agreement to amend, alter, or modify substantive programmatic or management procedures attendant to the delivery of services, which have a substantial impact upon the costs of service delivery.
  - 4) The Department ~~alcoholism or other drug abuse licensing authority~~ has amended the licensed capacity of a facility or treatment service.
  - 5) The Department ~~alcoholism or other drug abuse licensing authority~~ requires substantial treatment service changes as a result of mandated licensure requirements.
  - 6) The Department ~~alcoholism or other drug abuse licensing authority~~ requires substantial changes in physical plant as a result of mandated licensure requirements. In such instances, the provider must submit a plan of corrections for capital improvements approved by the licensing authority, along with the required cost information.
  - 7) State and/or federal regulatory requirements have generated a substantial increase in allowable costs.
- e) To be accepted for review, the written appeal shall include:
- 1) The current approved reimbursement rate, allowable costs, and the additional reimbursable costs sought through the appeal;
  - 2) A clear, concise statement of the basis for the appeal;
  - 3) A detailed statement of financial, statistical, and related information in support of the appeal, indicating the relationship between the additional reimbursable costs as submitted and the circumstances creating the need for increased reimbursement;
  - 4) A citation to any mandated or contractual requirement pertinent to the appeal; and
  - 5) A statement by the provider's chief executive officer or financial officer that the application of and information contained in the vendor's reports, schedules, budgets, books and records submitted are true and accurate.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. 8832 effective July 23, 1999, for a maximum of 150 days)

Section 2090.100 Sanctions for Non-Compliance/Audits  
EMERGENCY

- a) Failure to comply with the requirements of this Part shall result in the provider being issued a written warning or having its certification suspended or terminated for the Illinois Medical Assistance Program.
- b) The Department shall issue written notification to a certified provider who has failed to comply with any provision specified in this



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF EMERGENCY AMENDMENTS

Part. The provider shall have a maximum of 60 calendar days from the date of the written notice to correct the cited deficiencies. However, such action shall not preclude the Department from initiating proceedings as specified in subsection (g) of this Section.

c) The Department may also conduct post-payment audits based on volume of billings, complaints, identified deficiencies or non-compliance with this Part, or pursuant to a random selection process as necessary to monitor for compliance with this Part.

d) The Department shall audit a statistically significant randomly selected sampling of client records at the audited program.

e) The Department shall follow the recoupment formula approved by the Department of Public Aid, should the audit result in recoupment.

f) Upon completion of the post-payment audit the Department shall submit written notification to the program regarding audit findings and amounts determined to be recoupable. The program shall respond to the notification within 15 days with supporting documentation regarding the recoupment amount. If such documentation proves that the recoupment amount is inaccurate, the amount shall be revised. The program may also request a 100% audit. The department may reduce future payments at a percentage per month or in a lump sum, or demand repayment in a lump sum. ~~Recoupment shall be done under the rules of Practice for Medical Vendor Hearings, 89 Ill. Adm. Code 104. Subpart 6.~~

g) The Department and the Department of Public Aid shall jointly initiate administrative proceedings pursuant to 89 Ill. Adm. Code 140.16 to suspend or terminate certification and eligibility to participate in the Illinois Medical Assistance Program for reasons set forth in 89 Ill. Adm. Code 140.16 or for failing where the provider has failed to comply with any provision of specified in this Part. The Department may also initiate administrative proceedings pursuant to 89 Ill. Adm. Code 140.15 to recover money. Both types of proceedings shall be conducted under 89 Ill. Adm. Code 104: Subpart C (Rules of Practice for Medical Vendor Hearings).

h) ~~The Department shall immediately refer evidence of billing discrepancies or suspected improprieties to the Department of Public Aid for further action or may initiate post-payment audits.~~

(Source: Amended by emergency rulemaking at 23 Ill. Reg. **8832** effective July 23, 1999, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

## DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Medicaid Community Mental Health Services

Code Citation: 59 Ill Adm Code 132

Section Numbers: 132.70(c)

Date Originally Published in the Illinois Register: 4/16/99

23 Ill Reg 4353

At its meeting on July 20, 1999, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that because Illinois statute is silent on the issue of whether an administrative determination of abuse or neglect that is noted in the Nurse Aid Registry bans or limits employment of the nurse aid, habilitation aid or child care aid, the Department of Human Services seek a statutory amendment clearly stating that being placed on the Registry is a ban to employment in a community mental health agency facility. In this rulemaking, DHS is relying on a federal Health Care Financing Administration recommendation based on a general Social Security Act requirement that the health and welfare of individuals served is adequately protected. As the banning of a person from employment is a very serious matter, this penalty should be soundly based in State statute.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Minimum Standards for Certification of Developmental Training Programs

Code Citation: 59 Ill Adm Code 119

Section Numbers: 119.250(e)(7)

Date Originally Published in the Illinois Register: 4/16/99 23 Ill Reg 4355

At its meeting on July 20, 1999, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that the Illinois statute is silent on the issue of whether an administrative determination of abuse or neglect that is noted in the Nurse Aid Registry bans or limits employment of the nurse aid, habilitation aid or child care aid, the Department of Human Services seek a statutory amendment clearly stating that being placed on the Registry is a ban to employment in State or community agency DD facilities. In this rulemaking, DHS is relying on a federal Health Care Financing Administration recommendation based on a general Social Security Act requirement that the health and welfare of individuals served is adequately protected. As the banning of a person from employment is a very serious matter, this penalty should be soundly based in State statute.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Related Program Provisions

Code Citation: 89 Ill Adm Code 117

Section Numbers: 117.92

Date Originally Published in the Illinois Register: 4/2/99 23 Ill Reg 3893

At its meeting on July 20, 1999, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that the Department of Human Services not adopt its rulemaking entitled Related Program Provisions (89 Ill Adm Code 117; 23 Ill Reg 3893) until statutory authorization for the statewide expansion of this program has been fully enacted.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (1996)) requires the Board to annually publish in the *Illinois Register and Environmental Register* a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 1999 (July 1, 1998, through June 30, 1999).

**Final Actions Taken by the Pollution Control Board in Adjusted Standards Proceedings During Fiscal Year 1999 (July 1, 1998, through June 30, 1999)**

Docket/Docket TitleFinal Determination

In the Matter Of: Petition of R. Lavin & Sons, Inc. for Adjusted Standard from 35 Ill. Adm. Code 302.102, 302.208, and 302.Subpart F, Procedures for Determining Water Quality Criteria (December 17, 1998), AS 90-5

The Board granted voluntary withdrawal of a petition filed on behalf of a North Chicago, Lake County facility for an adjusted standard from certain of the requirements pertaining to deriving stream water quality criteria and effluent limitations.

In the Matter Of: Petition of Stiffel Company for an Adjusted Standard from 35 Ill. Adm. Code 218.Subpart F (December 17, 1998), AS 92-1

The Board granted voluntary withdrawal of a petition filed on behalf of a Chicago, Cook County facility for an adjusted standard from certain of the volatile organic material emissions limitations.

In the Matter Of: Petition of Central Can Co. for an Adjusted Standard from 35 Ill. Adm. Code 218 (August 6, 1998), AS 94-18

The Board granted this petition filed on behalf of a Chicago, Cook County facility for an adjusted standard from certain of the volatile organic material emission limitation requirements to allow the petitioner to apply cross-line averaging in calculating emissions from its various production lines.

In the Matter Of: Petition of Recycle Technologies, Inc. for Adjusted Standard under 35 Ill. Adm. Code 720.131(c) (September 3, 1998), AS 97-9

The Board determined with respect to a proposed Wood Dale, DuPage County facility that used antifreeze subjected to the petitioner's process and returned to its original use is not a solid waste subject to regulation under the RCRA Subtitle C hazardous waste rules.

In the Matter Of: Petition of City of Salem for an Adjusted Standard from 35 Ill. Adm. Code 814.Subpart

The Board denied this petition filed on behalf of a Marion County facility for an adjusted standard from a provision of

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

D (July 8, 1998), AS 98-2

the non-hazardous waste landfill regulations that would have required the petitioner's landfill to cease operations on September 18, 1998. The Board denied reconsideration of the denial on September 17, 1998

In the Matter Of: Petition of Sundstrand Corp. for an Adjusted Standard from 35 Ill. Adm. Code 215.204(j)(3) (August 6, 1998), AS 98-3

The Board granted voluntary withdrawal of a petition filed on behalf of a Rockford, Winnebago County facility for an adjusted standard from certain of the volatile organic material emissions limitations applicable to the petitioner's miscellaneous metal parts extreme performance coating operations.

In the Matter Of: Petition of Sundstrand Corp. for an Adjusted Standard from 35 Ill. Adm. Code 215.204(j)(3) (August 6, 1998), AS 98-4

The Board granted voluntary withdrawal of a petition filed on behalf of a Rockford, Winnebago County facility for an adjusted standard from certain of the volatile organic material emissions limitations applicable to the petitioner's miscellaneous metal parts extreme performance coating operations.

In the Matter Of: Petition of the Metropolitan Water Reclamation District of Greater Chicago for Adjusted Standard from 35 Ill. Adm. Code 811, 812, and 817 (Sludge Application) (May 7, 1998), AS 98-5

The Board dismissed this petition filed on behalf of a Cook County entity for an adjusted standard that would allow landfill operators throughout the state to use the petitioner's processed wastewater sludge as an alternative to soil for final cover, finding that it was unnecessary as it sought relief duplicative of the adjusted standard granted in In the Matter Of: Petition of the Metropolitan Water Reclamation District of Greater Chicago for Adjusted Standard from 35 Ill. Adm. Code 811, 812, and 817 (Sludge Application) (August 24, 1995), AS 95-4. The Board denied modification of its May 7, 1998, denial on August 6, 1998.

In the Matter Of: Petition of Wood River Refining Co., a Division of Equilon Enterprises LLC, f/k/a Shell Wood River Refining Co., for an Adjusted Standard from 35 Ill.

The Board granted a petition filed on behalf of a Roxana, Madison County facility for an adjusted standard from certain of the RCRA Subtitle C hazardous waste interim status treatment, storage,



## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

Adm. Code 725.213 and 725.321  
(March 18, 1999), AS 98-6

and disposal facility standards to allow the petitioner to continue to operate a former hazardous waste surface impoundment that no longer receives hazardous waste.

In the Matter Of: Petition of Sun Chemical Corp. for an Adjusted Standard from 35 Ill. Adm. Code 218.626(b) (October 15, 1998), AS 99-2

The Board dismissed this petition filed on behalf of a Northlake, Cook County facility for an adjusted standard from certain of the volatile organic material emissions limitation requirements because the petitioner had failed to timely publish the notice required by Section 28.1(d)(1) of the Act.

In the Matter Of: Petition of Big River Zinc Corp. for an Adjusted Standard under 35 Ill. Adm. Code 720.131(c) (April 15, 1999), AS 99-3

The Board determined, based on a petition filed on behalf of a Sauget, St. Claire County facility, that certain zinc oxide produced by high temperature recovery from steelmaking electric arc furnace dusts is not a solid waste subject to regulation under the RCRA Subtitle C hazardous waste rules.

In the Matter Of: Petition of Sun Chemical Corp. for an Adjusted Standard from 35 Ill. Adm. Code 218.626(b) (May 20, 1999), AS 99-4

The Board granted this Northlake, Cook County facility an adjusted standard from certain volatile organic material emissions limitation requirements applicable to 17 resin storage tanks.

**Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception Proceedings During Fiscal Year 1999**  
(July 1, 1998, through June 30, 1999)

The Board took no action in combined sewer overflow exception proceedings during fiscal year 1999.

Address written comments or request copies, noting the appropriate docket number, to:

Dorothy Gunn, Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312-814-3620

Address questions concerning this notice, noting the appropriate docket number, to:

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312-814-6924  
mmccambr@pcb084rl.state.il.us

## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Narrative and Planning Policies; 77 Ill. Adm. Code 1100

1) Rulemaking:

A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1100 are anticipated although the extent of these changes is not known at this time. Additionally a new section to Part 1100 will be proposed in response to the passage of Public Act 91-065, an amendment to the Alternative Health Care Delivery Act [210 ILCS 3] regarding the establishment of the Community Based Residential Rehabilitation Center Alternative Health Care Delivery Model.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to Illinois Register publication. A September 1999 first notice publication is anticipated for the rulemaking on Community Based Residential Rehabilitation Center Alternative Health Care Delivery Model. A November 1999 first notice publication is anticipated for the remainder of the rulemakings.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1100 are not anticipated to have an adverse impact upon healthcare facilities.

F) Agency contact person for information:

Name: Donald Jones  
Address: Illinois Health Facilities Planning Board  
Division of Facilities Development  
525 West Jefferson, 2nd Floor  
Springfield, Illinois 62761-0001  
Telephone: (217) 782-3516  
Fax: (217) 785-4308  
TTY: 800-547-0466

## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

E-Mail: [djonesle@ph.state.il.us](mailto:djonesle@ph.state.il.us)

C) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Processing, Classification Policies and Review Criteria; 77 Ill. Adm. Code 1110

1) Rulemaking:

A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1110 are anticipated although the extent of these changes is not known at this time. Additionally a new section to Part 1110 will be proposed in response to the passage of Public Act 91-065, an amendment to the Alternative Health Care Delivery Act [210 ILCS 3] regarding the establishment of the Community Based Residential Rehabilitation Center Alternative Health Care Delivery Model.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing date: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to Illinois Register publication. A September 1999 first notice publication is anticipated for the rulemaking on Community Based Residential Rehabilitation Center Alternative Health Care Delivery Model. A November 1999 first notice publication is anticipated for the remainder of the rulemakings.

E) Affect on small business, small municipalities or not for profit corporations: Proposed amendments to Part 1110 are not anticipated to have an adverse impact upon healthcare facilities.

F) Agency contact person for information:

Name: Donald Jones  
Address: Illinois Health Facilities Planning Board  
Division of Facilities Development  
525 West Jefferson, 2nd Floor

## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

Springfield, Illinois 62761-0001

Telephone: (217) 782-3516

Fax: (217) 785-4308

TTY: 800-547-0466

E-Mail: djones@idph.state.il.us

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Health Facilities Planning Financial and Economic Feasibility Review; 77 Ill. Adm. Code 1120

1) Rulemaking:

A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1120 are anticipated although the extent of these changes is not known at this time.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to Illinois Register publication. A November 1999 first notice publication is anticipated.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1120 are not anticipated to have an adverse impact upon healthcare facilities.

F) Agency contact person for information:

Name: Donald Jones

Address: Illinois Health Facilities Planning Board  
Division of Facilities Development  
525 West Jefferson, 2nd Floor  
Springfield, Illinois 62761-0001

Telephone: (217) 782-3516

Fax: (217) 785-4308

TTY: 800-547-0466

E-Mail: djones@idph.state.il.us

## HEALTH FACILITIES PLANNING BOARD

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G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Health Facilities Planning Procedural Rules; 77 Ill. Adm. Code 1130

1) Rulemaking:

A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1130 are anticipated although the extent of these changes is not known at this time.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to Illinois Register publication. A November 1999 first notice publication is anticipated.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1130 are not anticipated to have an adverse impact upon healthcare facilities.

F) Agency contact person for information:

Name: Donald Jones

Address: Illinois Health Facilities Planning Board  
Division of Facilities Development  
525 West Jefferson, 2nd Floor  
Springfield, Illinois 62761-0001

Telephone: (217) 782-3516

Fax: (217) 785-4308

TTY: 800-547-0466

E-Mail: djones@idph.state.il.us

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Practice and Procedure in Administrative Hearings; 77 Ill. Adm. Code 1180

1) Rulemaking:



## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

- A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1180 are anticipated although the extent of these changes is not known at this time.
- B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].
- C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.
- D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to Illinois Register publication. A November 1999 first notice publication is anticipated.

E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1180 are not anticipated to have an adverse impact upon health care facilities.

F) Agency contact person for information:

Name: Donald Jones  
 Address: Illinois Health Facilities Planning Board  
 Division of Facilities Development  
 525 West Jefferson, 2nd Floor  
 Springfield, Illinois 62761-0001  
 Telephone: (217) 782-3516  
 Fax: (217) 785-4308  
 TTY: 800-547-0466  
 E-Mail: djones1@idph.state.il.us

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): Permit Application Fees; 77 Ill. Adm. Code 1190

1) Rulemaking:

A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1190 are anticipated although the extent of these changes is not known at this time.

## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

- B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].
- C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.
- D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to Illinois Register publication. A November 1999 first notice publication is anticipated.

E) Affect on small businesses, small municipalities and not for profit corporations: Proposed amendments to Part 1190 are not anticipated to have an adverse impact upon healthcare facilities.

F) Agency contact person for information:

Name: Donald Jones  
 Address: Illinois Health Facilities Planning Board  
 Division of Facilities Development  
 525 West Jefferson, 2nd Floor  
 Springfield, Illinois 62761-0001  
 Telephone: (217) 782-3516  
 Fax: (217) 785-4308  
 TTY: 800-547-0466  
 E-Mail: djones1@idph.state.il.us

g) Part(s) (Heading and Code Citation): Public Notice of Opportunity for Public Hearing and Public Hearing Procedures; 77 Ill. Adm. Code 1200

1) Rulemaking:

A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1200 are anticipated although the extent of these changes is not known at this time.

B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].

C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

D) Date agency anticipates First Notice: Amendments for proposal must be approved by the State Board prior to

## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

Illinois Register publication. A November 1999 first notice publication is anticipated.

- E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1200 are not anticipated to have an adverse impact upon healthcare facilities.

F) Agency contact person for information:

Name: Donald Jones  
 Address: Illinois Health Facilities Planning Board  
 Division of Facilities Development  
 525 West Jefferson, 2nd Floor  
 Springfield, Illinois 62761-0001  
 Telephone: (217) 782-3516  
 Fax: (217) 785-4308  
 TTY: 800-547-0466  
 E-Mail: djones@idph.state.il.us

- G) Related rulemakings and other pertinent information: None

- h) Part(s) (Heading and Code Citation): Public Information, Rulemaking and Organization; 2 Ill. Adm. Code 1925

1) Rulemaking:

- A) Description: The Health Facilities Planning Board is conducting public forums in July and August 1999 to gather input into methods of improving the certificate of need program. As a result of these meetings, modifications to Part 1925 are anticipated although the extent of these changes is not known at this time.

- B) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960].

- C) Scheduled meeting/hearing dates: A public hearing will be scheduled during the first notice comment period.

- D) Date agency anticipates First Notice: Proposed amendments must be approved by the Board prior to Illinois Register publication. A November 1999 first notice publication is anticipated.

- E) Affect on small businesses, small municipalities or not for profit corporations: Proposed amendments to Part 1925 are not anticipated to have an adverse impact upon health care

## HEALTH FACILITIES PLANNING BOARD

## JULY 1999 REGULATORY AGENDA

facilities.

F) Agency contact person for information:

Name: Donald Jones  
 Address: Illinois Health Facilities Planning Board  
 Division of Facilities Development  
 525 West Jefferson, 2nd Floor  
 Springfield, Illinois 62761-0001  
 Telephone: (217) 782-3516  
 Fax: (217) 785-4308  
 TTY: 800-547-0466  
 E-Mail: djones@idph.state.il.us

- G) Related rulemakings and other pertinent information: None

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Illinois Business Brokers Act of 1995, 14 Adm. Code 140

1) Rulemaking:

- A) Description of Rule(s): Amend rules and draft rules generally to conform regulations to recent legislative enactments.

- B) Statutory Authority: Illinois Business Brokers Act, 815 ILCS 307/10-1, 10-45.

- C) Scheduled meeting/hearing dates: None

- D) Date the agency anticipates First Notice: Unknown

- E) Impact on small businesses, small municipalities or not for profit corporations: Unknown

- F) Agency contact person for information:

Tanya Solov  
17 North State Street  
Suite 1100  
Chicago, Illinois 60602  
312/793-2525

- G) Related rulemaking and other pertinent information: None

- b) Part(s) (Heading and Code Citation): Illinois Securities Law of 1953, 14 Ill. Adm. Code 130

1) Rulemaking:

- A) Description of Rule(s): Amend rules governing the standards required of dealers, salespersons and investment advisers in handling account transactions for customers. The amendments would include a clarification of those activities which fall under the anti-fraud provisions of Section 12 of the Act. Draft additional rules governing standards of conduct for investment advisers. Amend rules and draft additional rules on record keeping for investment advisers. Draft rules regarding the sale of securities from bank premises.

- B) Statutory Authority: Illinois Securities Law of 1953, 815 ILCS 5/1 and Section 11.A

- C) Scheduled meeting/hearing dates: None

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

- D) Date the agency anticipates First Notice: Unknown

- E) Impact on small businesses, small municipalities or not for profit corporations: Unknown The proposed changes may affect broker-dealers, investment advisers and banks.

- F) Agency contact person for information:

Tanya Solov  
17 North State Street  
Suite 1100  
Chicago, Illinois 60602  
312/793-2525

- G) Related rulemaking and other pertinent information: None

- c) Part(s) (Heading and Code Citation): Public Buildings, Facilities and Real Property, 71 Ill. Adm. Code 2000

1) Rulemaking:

- A) Description: Public Building Construction

- B) Statutory Authority: Illinois Procurement Code 30 ILCS 500/

- C) Schedule meeting/hearing date: Unknown at this time.

- D) Date agency anticipates First Notice: Unknown at this time.

- E) Impact on small businesses, small municipalities or not-for-profit corporations: None

- F) Agency contact person for information:

Jack L. Gooding, Purchasing Agent  
Illinois Secretary of State  
Budget & Fiscal Management  
124 Howlett Building  
Springfield, IL 62756  
(217) 782-0828  
Fax (217) 524-0785  
E-mail: jgooding@ccgate.sos.state.il.us

- G) Related Rulemaking and other pertinent information: This issue is covered by our Standard Procurement Rules (44 Ill. Adm. Code 2000), Subpart B: Procurement Rules, Section 2000.525 Rules: "Until specific Secretary of State rules can be promulgated for this purpose, the Office will confirm its



## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

capital procurement activities to the requirements of the Procurement Code by following the administrative rules of the Capital Development Board (44 Ill. Adm. Code 910, 950 and 980) and the Department of Central Management Service (44 Ill. Adm. Code 1)." A repeal of the absolute rules may be appropriate.

- d) Part(s) (heading and Code Citation): Local Records Commission, 44 Ill. Adm. Code 4000.10

1) Rulemaking:

A) Description: Sections 4000.10, (d); 4000.30 (c); 4000.40 (b); 4000.50 (c 15); and 4000.60 (b and c) will be amended to reflect changes in office procedures caused by new technology, the adoption of new microfilm industry standards by ANSI, the approval of new record disposal procedures approved by the LRC, and the amendment of Section 7 of the Local Records Act by the General Assembly. Also, a new Section 4000.70 is proposed in order to implement changes concerning digitization of records mandated by recent amendments to the Local Records Act.

- B) Statutory Authority: The Local Records Act (50 ILCS 205/).

- C) Scheduled meeting/hearing dates: Unknown

- D) Dates agency anticipates First Notice: October 1999

- E) Affect on small businesses, small municipalities or not-for-profit corporations: Rule change will only impact local government agencies. It will clarify management procedures.

- F) Agency contact for information:

Mark W. Sorensen, Assistant Director  
Illinois State Archives  
Margaret Cross Norton Building  
Springfield, Illinois 62756  
217/782-1082  
Fax 217/524-3930  
E-mail: msorens@ccgate.sos.state.il.us

- G) Related rulemaking and other pertinent information: It is possible that similar rule changes will be proposed the Cook County Local Records Commission (44 IL Adm. Code 4500) in the Spring of 2000 for the exact same reasons.

## SECRETARY OF STATE

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- e) Part(s) (Heading and Code Citation): PROCEDURES AND STANDARDS, 92 Ill. Adm. Code 1001.10

1) Rulemaking:

A) Description: The amendment would revise and modify various sections to accommodate changes in our current method of conducting hearings since the rules were last revised in May of 1993. The amendment would also seek to make our rules consistent with those of the Office of Alcoholism and Substance Abuse, Department of Human Services, which were most recently revised in 1996. These changes will include such things as, but not be limited to:

- a. Section 1001.220(e): change the Safety Responsibility hearing regions. Due in part to the success of the mandatory insurance law, the current list of hearing regions is not currently necessary nor being utilized;
- b. Section 1001.300: clarify when a petitioner is eligible for an informal hearing;
- c. Sections 1001.420(c)(3) and 1001.470: Clarify how educational DP's are issued;
- d. Sections 1001.441, 442, 443: modify the Breath Alcohol Ignition Interlock Device (BAIID) provisions to reflect the statutory changes contained in Senate Bill 1695.
- e. Section 1001.430: revise the requirements for reinstatement for non residents who either never were Illinois residents and/or who have very old DUIs as the basis of the current revocation.
- f. Section 1001.440: revise references to classifications, treatment requirements, etc., to reflect changes in OASA's rules. Address the issue of internet A.A. chat rooms" as a support system;
- g. Section 1001.610: revise the definition of a medical or pharmacological expert in the zero tolerance rules;
- h. Section 1001.670: refuse references to BAC levels in zero tolerance RDP application cases to reflect the new DUI limit of 0.08.

- B) Statutory authority: 625 ILCS 5/2-104.

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## JULY 1999 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown
- E) Affect on small businesses, small municipalities on not-for-profit corporation: rulemaking will not affect small businesses, not-for-profit corporations or small municipalities.
- F) Agency contact person for information:  
 Marc Christopher Loro, Legal Advisor  
 Room 200, Howlett Building  
 Springfield, Illinois 62756  
 217/785-8245  
 Fax 217/782-2453
- G) Related rulemaking and other pertinent information: None
- f) Part(s) (Heading and Code Citation): Transportation, 92 Ill. Adm. Code 1000.70
1. Rulemaking:
- A) Description: Revision of the rules to reflect changes in procedures within the Department of Police.
- B) Statutory Authority: 625 ILCS 5/2-104 and 5/2-115
- C) Scheduled meeting/hearing dates: None
- D) Date agency anticipates First Notice: Unknown
- E) Affect on small businesses, small municipalities on not-for-profit corporation: The revision should not impact small businesses, municipalities or not-for-profit corporations.
- F) Agency contact person for information:  
 Stephen G. Rutledge  
 Deputy Director  
 322 East Adams  
 Springfield, Illinois 62756  
 217/785-0846
- G) Related rulemaking and other pertinent information: Most of the revisions addresses processes that are more accurately

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

- covered by Illinois Statutes or are no longer implemented by the Department of Police.
- g) Part(s) (Heading and Code Citation): Illinois State Library, Information Services Division, 23 Ill. Adm. Code 3010
- 1) Rulemaking:
- A) Description: Revision of the rules to reflect needed updates regarding photocopying, circulation of materials, reverses of materials, reference service, and interlibrary loan.
- B) Statutory authority: Implementing and authorized by the State Library Act [15 ILCS 320]. The changes are derived from HB 2164, which is awaiting the Governor's signature after passing both Houses of the General Assembly this Spring. The rulemaking will be initiated if the legislation is signed into law.
- C) Schedule meeting/hearing date: A hearing date will not be scheduled since the changes are not major in scope. Public comment will be requested through letters, faxes and electronic mail.
- D) Date agency anticipates First Notice: October 1999
- E) Impact on small businesses, small municipalities or not-for-profit corporations: No direct impact.
- F) Agency contact person for information:  
 Kathleen L. Bloomberg  
 Illinois State Library  
 South Second Street  
 Springfield, Illinois 62701-1796  
 217/785-0052  
 Fax 217/782-8261  
 E-mail: kbloom@library.sos.state.il.us
- G) Related rulemaking and other pertinent information: None
- h) Part(s) (Heading and Code Citation): Issuance of Licenses, 92 Ill. Adm. Code 1030.86.
- 1) Rulemaking:
- A) Description: Will be amending the above-referenced Part to

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## JULY 1999 REGULATORY AGENDA

implement any legislative changes enacted by the General Assembly and passed into law.

- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's license and enact legislation regarding Public Acts 90-779, 90-683, 90-784 and 90-733.

- C) Schedule meeting/hearing date: None at this time.

- D) Date agency anticipated First Notice: December, 1999.

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

- F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

- G) Related information and other pertinent information: None

- i) Part(s) (Heading and Code Citation): Issuance of Licenses, 92 Ill. Adm. Code 1030.97

1) Rulemaking:

- A) Description: Will be amending the above-referenced Part to implement any legislative changes enacted by the General Assembly and passed into law.

- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding Public Acts 90-779, 90-683, 90-784 and 90-733.

- C) Schedule meeting/hearing date: None at this time.

- D) Date agency anticipates First Notice: None at this time.

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

- F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

- G) Related information and other pertinent information: None

- j) Part(s) (Heading and Code Citation): Issuance of Licenses, 92 Ill. Adm. Code 1030.98

1) Rulemaking:

- A) Description: Will be amending the above-referenced Part to implement any legislative changes enacted by the General Assembly and passed into law.

- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding Public Acts 90-779, 90-683, 90-784 and 90-733.

- C) Schedule meeting/hearing date: None at this time.

- D) Date agency anticipates First Notice: July, 1999

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

- F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

- G) Related information and other pertinent information: None.

- k) Part(s) (Heading and Code Citation): Cancellation, Revocation or Suspension of Licenses or Permits, Title 92 of the Illinois Administrative Code, Chapter II, Part 1040, Section 1040.29, 2 or More Traffic Offenses Committed within 24 Months by a person Under the Age



## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

of 21 Years; 1040.33 Suspension or Revocation of Driver's Licenses/Permits for Fictitious or Unlawfully Altered person-with Disabilities License Plate or parking Decal or Device or Fraudulent person-with Disabilities License Plate or Parking Decal or Device; 1040.50 Suspension of License of Commercial Vehicle Driver; 1040.52 Driver Remedial Education Course; 1040.101 Reinstatement Fees.

1) Rulemaking:

A) Description: Will be amending Title 92 Illinois Administrative Code, Chapter II, Part 1040 to incorporate recently enacted legislation.

B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

C) Schedule meeting/hearing date: None at this time.

D) Date agency anticipates First Notice: July, 1999

E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

1) Part(s) (Heading and Code Citation): Issuance of Licenses, 92 Ill. Adm. Code 1035.10

1) Rulemaking:

A) Description: Will be amending the above-referenced Part to implement any legislative changes enacted by the General Assembly and passed into law.

B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation

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## JULY 1999 REGULATORY AGENDA

regarding public acts 90-779, 90-683, 90-784 and 90-733.

C) Schedule meeting/hearing date: None at this time.

D) Date agency anticipates First Notice: July, 1999

E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

m) Part(s) (Heading and Code Citation): Title 92 of the Illinois Administrative Code, Chapter II, part 1070.10 Forms of Security; 1070.30 Installment Agreements; 1070.40 Disposition of Security.

1) Rulemaking:

A) Description: Will be amending title 92 Illinois Administrative Code, Chapter II Part 1070 to incorporate recently enacted legislation.

B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

C) Schedule meeting/hearing date: None at this time.

D) Date agency anticipates First Notice: July, 1999

E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

Robert W. Mueller  
 Assistant General Counsel  
 2701 S. Dirksen Parkway  
 Springfield, Illinois 62723  
 217/782-5356 or 217/785-3094  
 Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

- n) Part(s) (Heading and Code Citation): Title 92 of the Illinois Administrative Code, Chapter II, Part 1030, Section 1030.81, Endorsements: 1030-130 Grounds for Cancellation of a Probationary License

1) Rulemaking:

- A) Description: Will be amending Title 92 Illinois Administrative Code, Chapter II, Part 1030 to incorporate recently enacted legislation.

- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

- C) Schedule meeting/hearing date: None at this time.

- D) Date agency anticipates First Notice: July, 1999

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

- F) Agency contact person for information:

Robert W. Mueller  
 Assistant General Counsel  
 2701 S. Dirksen Parkway  
 Springfield, Illinois 62723  
 217/782-5356 or 217/785-3094  
 Fax: 217/785-1385 or 217/524-1689

- G) Related information and other pertinent information: None

- o) Part(s) (Heading and Code Citation): Title 92 of the Illinois Administrative Code, Chapter II, Part 1030, Section 1030.15, Requirements of Applicants for a School Bus Driver permit; 1030.20 Annual Medical Examination and Certificate; 1035.25 permit Application

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

## Process.

1) Rulemaking:

- A) Description: Will be amending Title 92 Illinois Administrative Code, Chapter II, Part 1035 to incorporate recently enacted legislation.

- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

- C) Schedule meeting/hearing date: None at this time.

- D) Date agency anticipates First Notice: September, 1999

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

- F) Agency contact person for information:

Robert W. Mueller  
 Assistant General Counsel  
 2701 S. Dirksen Parkway  
 Springfield, Illinois 62723  
 217/782-5356 or 217/785-3094  
 Fax: 217/785-1385 or 217/524-1689

- G) Related information and other pertinent information: None

- p) Part(s) (Heading and Code Citation): Title 92 of the Illinois Administrative Code, Chapter II, Part 1040.32 Suspension or Revocation of Driver's Licenses, Permits or Identification Cards Used Fraudulently; 1040.42 Fleeing and Eluding; 1040.102 Bankruptcy for Suspensions, Cancellations, Failure to Pay and Returned Checks Actions

1) Rulemaking:

- A) Description: Will be amending Title 92 Illinois Administrative Code, Chapter II, Part 1040 to incorporate recently enacted legislation.

- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

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## JULY 1999 REGULATORY AGENDA

- C) Schedule meeting/hearing date: None at this time.
- D) Date agency anticipates First Notice: September, 1999
- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

Robert W. Mueller  
 Assistant General Counsel  
 2701 S. Dirksen Parkway  
 Springfield, Illinois 62723  
 217/782-5356 or 217/785-3094  
 Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

- q) Part(s) (Heading and Code Citation): Sale of Information, Title 92 of the Illinois Administrative Code, Chapter II, Part 1002, Section 1002.20, Definitions and 1002.100 Captured Photographs or Images

1) Rulemaking:

- A) Description: Will be amending Title 92 Illinois Administrative Code, Chapter II Part 1002 to define the terms "captured photographs and images", and to provide rules for distribution of such as provided for by law.
- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

C) Schedule meeting/hearing date: None at this time.D) Date agency anticipates First Notice: September, 1999

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

Robert W. Mueller  
 Assistant General Counsel  
 2701 S. Dirksen Parkway  
 Springfield, Illinois 62723  
 217/782-5356 or 217/785-3094  
 Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

- r) Part(s) (Heading and Code Citation): Commercial Driver Training Schools, Title 92 of the Illinois Administrative Code, Chapter II, Part 1060.20, Requirements for School Licenses; Section 1060.30 Driver Training Schools Names; 1060.70 Driver Training School Course of Instruction; 1060.180 Teen Accreditation; 1060.200 Commercial Drivers License and Endorsement Accreditation

1) Rulemaking:

- A) Description: Will be amending Title 92 Illinois Administrative Code, Chapter II, Part 1060 to incorporate recently enacted legislation.
- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

C) Schedule meeting/hearing date: None at this time.D) Date agency anticipates First Notice: October, 1999

- E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

Robert W. Mueller  
 Assistant General Counsel  
 2701 S. Dirksen Parkway  
 Springfield, Illinois 62723  
 217/782-5356 or 217/785-3094  
 Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

- s) Part(s) (Heading and Code Citation): Illinois Safety Responsibility Law. Title 92 of the Illinois Administrative Code, Chapter II, Part



## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

1070, Section 1070.110, Illinois Safety and Family Financial Responsibility Law

1) Rulemaking:

- A) Description: Will be amending Title 92, Illinois Administrative Code, Chapter II, Part 1070 to incorporate recently enacted legislation.
- B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

C) Schedule meeting/hearing date: None at this time.

D) Date agency anticipates First Notice: November, 1999

E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

t) Part(s) (Heading and Code Citation): Cancellation, Revocation or Suspension of Licenses or Permits, Title 92 of the Illinois Administrative Code, Chapter II, Part 1040, Section 1040.20, Illinois Offense Table

1) Rulemaking:

A) Description: Will be amending Title 92, Illinois Administrative Code, Chapter II, Part 1040 to incorporate recently enacted legislation.

B) Statutory authority: Implementing the Secretary of State's authority to issue driver's licenses and enact legislation regarding public acts 90-779, 90-683, 90-784 and 90-733.

## SECRETARY OF STATE

## JULY 1999 REGULATORY AGENDA

C) Schedule meeting/hearing date: None at this time.

D) Date agency anticipates First Notice: December, 1999

E) Affect on small businesses, small municipalities or not-for-profit corporations: I do not believe this will have any affect on small businesses, not-for-profit corporations or small municipalities.

F) Agency contact person for information:

Robert W. Mueller  
Assistant General Counsel  
2701 S. Dirksen Parkway  
Springfield, Illinois 62723  
217/782-5356 or 217/785-3094  
Fax: 217/785-1385 or 217/524-1689

G) Related information and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 20, 1999 through July 26, 1999 and have been scheduled for review by the Committee at its August 17, 1999 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
9/2/99	Department of Human Services, Eligibility (89 Ill Adm Code 682)	5/21/99 23 Ill Reg 5982	8/17/99
9/2/99	Department of Natural Resources, Duck, Goose and Coot Hunting (17 Ill Adm Code 590)	5/21/99 23 Ill Reg 5986	8/17/99
9/2/99	Department of Natural Resources, Conservation 2000-Ecosystems Program (17 Ill Adm Code 1523)	5/28/99 23 Ill Reg 6202	8/17/99
9/8/99	Department of Natural Resources, Public Museum Grant Program (23 Ill Adm Code 3200)	12/18/98 22 Ill Reg 21765	8/17/99

Rules acted upon during the calendar quarter from Issue 30 through Issue 42 are listed in the Issues Index by Title number, Part number and Issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500-1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jnaiale@ccgate.sos.state.il.us (Internet address).

PROPOSED

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11-1424-31  
38-1000-31  
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35-307-30  
35-310-30  
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44-655R-30  
44-675R-30  
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JESSE WHITE  
SECRETARY OF STATE  
INDEX DEPARTMENT  
111 E. MONROE  
SPRINGFIELD, IL 62756









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